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POOR-LAWS

OF

MASSACHUSETTS AND NEW YORK

WITH APPENDICES CONTAINING THE UNITED STATES IMMIGRATION AND CONTRACT-LABOR LAWS

BY

JOHN CUMMINGS, Ph.D.

JULY, 1895

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PREFACE.

The poor-laws of any single state cannot be adequately considered apart from the laws of other and especially of adjacent states. For general purposes, however, it is not necessary to go into a detailed account of the laws of every state; this would lead to wearisome repetition. It may be said in general that the states have followed the example either of Massachusetts or of New York in their poor-relief legislation; that is, they have adopted either the town or the county system. The historical development of poor-relief legislation in Massachusetts and New York is presented as typical of that development in other states as well. The history and experience of these two states is perhaps richer and more instructive than that of any others. They have had to face difficulties from an early period which have scarcely begun to make themselves felt even now in newer states removed from the sea-board; especially with regard to immigration. New York as the port whence immigrants spread all over the country has had to deal with a floating class of foreign paupers, and with problems connected therewith peculiar to this state alone. The complications which enter into interstate relations, owing to the diversity of laws in the several states, have received peculiar exemplification in the relations existing between Massachusetts and New York.

Differences in the conditions of settlement in the two states have led to strained relations between their administrative officers. So long as the laws of settlement in one state are made without reference to the laws of

other—especially of contiguous—states, their administration must be attended with confusion and conflict; and this has been demonstrated in the case of Massachusetts and New York, where the laws of settlement have developed upon quite diverse principles. Until recently a settlement once gained in Massachusetts could never be lost. It has been the boast of the commonwealth that every drop of Massachusetts blood carried with it settlement; so that the great-grandchildren of parents once settled in the commonwealth might be sent back from other states or countries into Massachusetts for support. The conditions of gaining settlement were, however, as will be pointed out, so severe that a large portion of the population never acquired it. In New York, on the other hand, settlement could be acquired on short residence in one place. It was also easily lost when one left the state, being annulled by an absence of one year. In the administration of these laws confusion was inevitable. The poor-relief officers of New York acted on the assumption that the laws in Massachusetts were similar to those in their own state; the Massachusetts officials acted on the converse assumption. A person in distress turning up in New York, who had lived in some Massachusetts town long enough to acquire settlement, under New York laws would be turned over to Massachusetts. According to Massachusetts laws, however, the person returned would not be a legitimate charge upon the commonwealth. On the other hand, Massachusetts officials, acting on the assumption that a person who had once gained a settlement in New York must always retain it, would return to New York indigent persons whose claim to support had according to New York laws expired.

Another source of confusion and ill-feeling has lain in

the difference of policy pursued in the transportation of indigent persons to their places of residence or settlement outside the state. The Massachusetts state board has held that the jurisdiction of the state's officers ceased at the state line, and accordingly that the poor-relief officers have performed their full duty by transporting persons outside the state line, leaving the officials of adjoining states to defray charges of transport across their respective territories. As it happens, this strict interpretation of the state's jurisdiction has borne rather heavily on New York. Many lines of transportation into Massachusetts from the west and south passed through New York. Persons entering on these lines and becoming chargeable, though they might never have resided in New York a day, would be started in their return journey to some western or southern state, carried over the state line and dropped in New York, on the assumption that New York officials would "pass on." New York could not retaliate since there were no states east of Massachusetts from which immigration into New York took place. Naturally, therefore, New York objected to the policy, insisting that its own practice be followed, and that indigent persons be sent the whole of the distance to their destination wherever that might be.

Still another source of discord has existed between these two states. Immigrants bound for Massachusetts have landed in considerable numbers at the port of New York. Whenever such persons have become chargeable they have been sent back to New York. This was done for a time in accordance with an agreement entered into in 1869, between the Massachusetts alien commissioners and the New York commissioner of charities and correction. By this agreement immigrants entering New York through the port of Boston were returned to Bos-

ton, and those entering Massachusetts through New York, to New York. A similar understanding existed between Boston and Rhode Island, and Portland. In 1877 the New York commissioner gave notice of withdrawal from this agreement, and entered a protest against a policy which threw back each year large numbers of dependent persons who had never had a residence within the state. Massachusetts, however, continued her policy of deporting unsettled paupers outside the state's boundaries and leaving them there to be passed on from state to state to their destination.

A conference of the state boards and officers held in New York city, November 12, 1879, brought out clearly these differences in policy and disposition. A paper in the Thirteenth Annual Report of the state board of charities of New York recites among other points settled at this conference the following:

1. The number of paupers deported from Massachusetts to this State is very large . . . .

2. Massachusetts holds New York responsible for the support of persons, on their becoming dependent in that State, who have entered her borders from any part of New York, although the parties may have no settlement in New York, and may not have been there except as passengers *in transitu* for Massachusetts.

3. Railroad corporations of Massachusetts are required by statute to carry out of the State, or to provide for their maintenance, persons whom they have conveyed into it, on their becoming dependent, unless they have obtained a legal settlement.

4. While the benefits of a settlement in Massachusetts descend to the offspring through succeeding generations, the difficulties of acquiring it are so great as practically to deprive a large portion of her population of this privilege, and leaving them in a condition liable to be deported on becoming dependent. . . . .

5. New York is largely suffering from the paupers and vagrants deported from Massachusetts in consequence of the enforcement of her rigorous settlement laws.

6. While in New York paupers are removed only with their consent, and then to their places of destination, in Massachusetts no option is extended to them, but they are imperatively thrust out of her borders to burden this and other states.

7. Massachusetts holds New York responsible for immigrants on their becoming sick and dependent in that State, unless they have acquired a settlement, who landed at the port of New York, although their original destination may have been to some point in Massachusetts, thus claiming the advantage to be derived from foreign immigration without sharing its disadvantages.

8. The magnitude of the evils arising from the return of immigrants, settled in other states, to this State upon their becoming dependent, because of their arrival in the country through the port of New York, is such that, should the other states adopt the policy pursued by Massachusetts, the burden to New York would soon become intolerable.[1]

This was the way the matter appeared to the New York board, and it was certainly serious enough in aspect. In these paragraphs the charges against Massachusetts are stated pretty strongly,—Massachusetts, for example, did not of course hold New York responsible for the "support" of persons entering her borders through New York, but only left such indigent persons to be passed on by New York to their destination,—and there certainly was another side of the matter. It is difficult to think of any way in which Massachusetts could protect herself against the influx of needy and decrepit immigrants, except to return them to the port where they landed, and to the port which had collected commutation money or accepted a bond as a guarantee that the immigrant should not become dependent. As at this time the regulation of immigration at the port of New York lay in the hands of local officials at that port; and as all the states in the Union were more or less concerned that the service at this port should be efficient and careful in admitting foreigners, one way of holding these officials to their trust was to return to them such immigrants as became paupers.

In 1892 the legislature of Massachusetts, having authorized the governor to appoint a commission "to

[1] Thirteenth Annual Report of the State Board of Charities of New York, pp. 276–7.

investigate the effect on this Commonwealth of the migration of dependent persons, paupers and criminals from other states," took occasion to urge upon Congress and upon the executive and legislative departments of the several states "the importance of adopting legislative measures and establishing a uniform policy in dealing with immigrants from foreign countries, and persons migrating from state to state who are dependent upon public or private charity, and are of idle, vicious or criminal habits." This commission has been authorized to report, but the report has not at the time of this writing appeared.

Enough has been said perhaps to justify the selection of these two states for study of the historical development of their poor-laws. Although adjacent states, the laws in each have developed quite independently. The records of the two states are full and easily accessible, and they cover a longer period than do the records of most states. The experience of both commonwealths is varied and instructive. And finally, we find developed in them side by side the two systems of administration—namely, administration by county, and by town—which have spread with about equal favor through the newer states of the Union. Practically the only variation from the one or the other of these systems is where the choice between them is made a matter of local option, as in Illinois, and so both systems thrive in one state. In general it may be said, however, that the county system has found more favor in those southern states in which any system at all prevails, and the town system more in the North.

It is hoped, therefore, that an examination of the records and statutes of Massachusetts and New York may not be devoid of interest even to those residing elsewhere.

Much of the poor-relief legislation in the United States has taken the form of restriction put upon the migration of paupers. The earlier settlement laws are attempts to regulate the migration of paupers from village to village; the later settlement laws, attempts to regulate interstate migration. In our recent national contract-labor, Chinese-exclusion, and other immigration laws we see attempts to regulate the international migration of dependent or incompetent persons liable to become public charges. New York city and Boston have long been the chief landing places of such persons. It seemed fitting, therefore, in a paper dealing with the poor-laws of these states to add in an appendix our national laws on immigration and contract-labor.

TABLE OF CONTENTS.

ENGLISH POOR-LAW.[1]

Late in the fourteenth century, 1388, under Richard II,[2] beggars were forbidden by statute to leave the place where they then were. In this and in subsequent acts severe penalties were enacted against vagrancy—for a first offence, whipping; for the second, loss of ears; for the third, hanging. As the penalties were too severe to be enforced these statutes became dead letters. They are, however, indications of that transformation from a system of agriculture in which each laborer was fixed to the soil he cultivated, and from a system of non-competitive petty handicraft, to a regime of hired labor —a transformation which is still going on to-day. Whatever good may come out of this transformation in the long run, certainly special, if temporary, evil tendencies have accompanied it, not the least of which was the appearance in England during the thirteenth and fourteenth centuries of a very considerable class of sturdy beggars. The closing of the commons, the localization of industries, the growth of commerce, and the accumulation of capital brought into existence a class of laborers before unknown—a class of hired laborers freed from the soil and seeking work away from home wherever work might be found. Laborers were

[1] For a fuller account of English Poor-Law see "The English Poor-Law System Past and Present," Dr. P. F. Aschroft; also, "An Introduction to English Economic History and Theory," by W. J. Ashley, M. A., Part II, chapter v.

[2] 12 Richard II, chapters 7 and 8.

no longer subject to the petty exactions of landlords; they were now dependent as they have since remained, to a greater or less degree, upon the owners of capital; in times of distress when they could find no employment, they were forced to beg.

Industrial changes were not alone responsible for the increase in beggary which characterizes several centuries prior to the Reformation period. The church by its liberality encouraged alms-seeking. Its system of poor-relief was founded upon a literal interpretation of the doctrine that it is more blessed to give than to receive, which naively regards the poor and needy merely as means of grace given by divine wisdom to the end that the elect may have proper exercise for their virtues. This is too comfortable a doctrine upon which to build any considerable system of public poor-relief, however serviceable the principle in private philanthropy. Whether one regards the Christian charity of those early centuries of modern industrial conditions as the expression of a selfish interest in the world to come, or as the sincere expression of virtue and love for fellowmen, one cannot deny the baleful influences of the lavish bestowal of alms by the church, especially during the fourteenth and fifteenth centuries. Alms given in the spirit of Christian charity may benefit the giver, but they do not so surely benefit the receiver. By the end of the sixteenth century even the church began to doubt whether charity founded upon a selfish egotism blessed anybody. It could no longer provide for the wandering hordes nurtured in the belief that the church owed them a living and only too ready to exercise others' virtues by not working. Each year the contribution levied upon the industrious parishioners for the support of the idle became heavier, until at length Par-

liament was forced to take upon itself to regulate the doles bestowed by the church.

The old law of Richard II, which attempted to settle beggars in the parishes wherever they happened to be, failed because the penalties attached were too severe. In 1531, under Henry VIII,[1] Parliament enacted that local authorities might grant licenses to beggars to beg within fixed boundaries. In 1536[2] private alms-giving was forbidden. In 1575–6[3] a fine of 20*s* was put upon any one who aided or harbored a beggar "whether marked or not." The same law provided that stores of wool, hemp and iron be provided to give employment to the poor, and that houses of correction be established for those who refused to work.

Previous to 1576 no legal poor-rates had been levied, but for many years, as Mr. Aschroft points out,[4] contributions collected and disbursed through the church had been in reality compulsory, and when refused they could be exacted either through the bishop or the magistrate.

By the end of the sixteenth century each parish had its own board of overseers, nominated by justices, for the collection and disbursement of funds for support of the poor. Thus Parliament accepted the organization of the parish and attempted merely to introduce uniformity and method into the churches' administration. So long as a laborer had remained a tenant upon a manor estate, he had had recourse to the landlord in times of distress. Parliament had left the poor to the mercies of the landlords. Freedom from service brought with it its own perils and exigencies for the wage earner. He could no longer call upon his landlord for aid. The

[1] 22 Henry VIII, c. 12.
[2] 27 Henry VIII, c. 25.
[3] 18 Eliz., c. 3.
[4] "The English Poor-Law System," 5.

church became universally a place of refuge for those in want. It distributed its bounties to the worthy and the unworthy, until the demand upon its resources became greater than it could stand, and the abuses of its hospitality too flagrant to be disregarded.

Down to the close of the sixteenth century Parliament had made no provision for support of the poor. It had passed stringent laws against beggary and against beggars, but it dealt with poverty chiefly as a crime. The church with its indiscriminate charity encouraged idleness and vagrancy; while the state by its harsh severity aggravated the miseries of the worthy poor.

The tentative acts of the last quarter of the sixteenth century show that a new feeling was taking possession of legislators. This new feeling finds final expression in the famous poor-relief act of Elizabeth,[1] passed in 1601, which provided that in each parish from two to four householders should be appointed, who together with the church wardens should act as overseers of the poor. The overseers were authorized to raise by weekly taxation sums to be used (1) in buying a sufficient stock of flax, hemp, wool and other necessaries to set poor children and able-bodied adult persons to work; (2) in relieving the lame, impotent and blind; and (3) in placing out poor children as apprentices. The statute set no penalties for begging; it did not define settlement, but left each parish to care for its own poor, settled or unsettled. To provide against overburdening of any one parish, justices were authorized in any case where for one reason or another one parish seemed to have more than its proportional number of paupers, to levy a rate-in-aid upon neighboring parishes.

The only other relief act which need be mentioned

[1] 43 Eliz., c. 2.

before taking up the relief orders of the colonies, is the act of 1662,[1] which provided for the removal of new comers out of any parish within forty days of their arrival. The act authorized any two justices of the peace by their warrant to remove within forty days "any person or persons coming to settle as aforesaid in any tenement under the yearly value of £10" "to the parish where he or they were last legally settled, either as a native, householder, sojourner, apprentice, or servant for the space of forty days at the least, unless he or they give sufficient security for the discharge of such parish, to be allowed by said justices."

The principles of administration of poor-relief laid down in the act of Elizabeth and modified by the act of Charles II, remained practically unaltered until after the separation of the colonies from the mother country. Though none of the poor-relief orders passed in the colonies may be traced directly to any single enactment of Parliament, it is clear that the early settlers drew largely upon their knowledge of English law and tradition in their administration of public relief. The poor-relief legislation of Parliament did not extend over the colonies, but the influence of English practice nevertheless made itself felt. Parliament possessed authority to impose any system of relief upon the colonies, but it chose to leave the colonists free to pass such orders as they saw fit to do, and as occasion demanded.

[1] 14 Car. II, c. 12.

MASSACHUSETTS POOR-LAWS.

PRIOR TO 1692.

In 1692, under a new charter granted in that year, the settlement at Plymouth and the Massachusetts Bay settlements were brought under one government to be known henceforth as the Province of Massachusetts Bay. The poor-relief orders passed in these settlements prior to their union, outline the policy which afterward characterized the administration of public aid in the province and later in the state of Massachusetts. Conditions peculiar to a new and under-settled country made any elaborate provision for the destitute poor unnecessary.[1] Aid in the form of work the settlers could give to any willing hand. Men lived plainly and felt little sympathy with those who failed to exact a livelihood from the not too fertile soil. Extreme prudence and public thrift among

[1] "At first," writes Mr. George Silsbee Hale, "in a small and thinly settled community, no public establishments or special provisions were necessary. Some of the poor received allotments for cultivation or pasturage from common lands. Their outdoor relief came from the treasury or property of the town and their fuel from its woodlots. Some were maintained and lodged in the houses of their townsmen. Some were aided by special gifts of food, clothing, or money." —"Memorial History of Boston," vol. iv, 643.

Yet except in degree the needs and vices of the colony were not unlike the needs and vices of the mother country. The second letter of general instructions from the governor and company of Massachusetts Bay colony to "Capt. Jo. Endycott," dated London, 28 May, 1629, contains the following admonition: "Wee may not omitt, out of our zeale for the generall good, once more [to] putt yow in mynde to bee very circumspect, in the infancie of the plantacion, to settle some good orders whereby all persons resident upon our plantacion may apply themselves to one calling or other, and noe idle drone bee permitted to live amongst us, which, if you take care now at the first to establish, wilbe an undoubted meanes, through Gods assistance, to prevent a

them sometimes gave rise to petty jealousies between one settlement and another. Each town took care that no strangers who seemed likely to become public charges were admitted as inhabitants. The same sort of narrow-minded zeal for local interests which led to the passage of the Act of Settlement in England under Charles II,[1] led to the passage of orders of a like animus in the towns of New England, where every landholder and voter was interested in keeping taxes low and, to that end, interested in keeping needy strangers out.

As early as 1639, therefore, the Massachusetts Bay settlement passed an order regarding the settlement of those in receipt of aid. "Power to determine all differences about the lawfull setling and provideing for pore persons," and "power to dispose of all unsetled persons into such townes as they shall iudge to bee most fitt for the maintenance of such persons and families and the most ease of the countrey,"[2] was given to the general court or any two magistrates out of court.

world of disorders and many grievous sinns and sinners."—Records of the Governor and Company of the Massachusetts Bay in New England, vol. i, 405.

Three years later it is ordered by the general court that "there shalbe a howse of correccion and a howse for the beadle built att Boston, with what speede conveniently may be."—(*Ibid.*, vol. i, 100.) And in October of the year following the constable of any place was ordered to use especial care that no person spent his time idly or unprofitably; especially he was "to take knowledge . . . . of common coasters, unprofittable fowlers, and tobacco takers, and to present the same to the 2 nexte Assistants, whoe should have power to heare and determine the cause, or, if the matter be of importance, to transferr it to the Court."—*Ibid.*, vol. i, 109.

[1] The preamble of the English statute states that the act was passed because poor people "are not restrained from going from one parish to another, and therefore do endeavor to settle themselves in those parishes where is the best stock, the largest commons or waste to build cottages and the most woods for them to burn or destroy." 14 Car. II. c. 12, 1662.

[2] Records of the Governor and Company of the Massachusetts Bay in New England, vol. i, 264.

Under this kind but, as it proved, inadequate legislation doubtful cases often came up before the magistrates; and the towns, hardly in the spirit of true charity, contested each doubtful case. The jealous economy of the towns called for a more definite law of settlement. Accordingly in 1645, "Mr. Shepheard, John Johnson, and Capt. Wiggin" were chosen a committee "to consider the lawe for the disposing of inmates, and setling impotent aged persons, or vagrants, and either to rectifye it where it is defective, or drawe up and preferr a bill that may answer the expectacion of each toune, and the whole countrye, that every toune may knowe what may be their oune burdens, and prevent multiplying of peticions to this Courte hereabouts, and present their thoughts herein to this howse."[1]

Diligent search fails to reveal any general order, however, after the provision of 1639 until the year 1655. In that year "there being complaynt made . . . of very great charg arising to severall townes by reason of strangers pressing in without consent and approbation of inhabitants, and no law to prevent the same," each town was authorized to refuse admission to persons from other towns in the colony, and it was provided further that any persons brought into the town "without the consent of prudentiall men" should not be chargeable to the town where they dwelt, but should be "relieved and mayntayned by those that were the cause of their coming in, of whom the towne or select men are hereby empowred to require securitie at their entrance or else forbid them entertaynment."[2]

Under this order new comers might be warned to depart at any time until they were admitted as inhabitants

[1] *Ibid.*, vol. iii, 15.
[2] *Ibid.*, vol. iii, 376-7.

of a town. The general court introduced an important modification in the settlement law four years later, 1659. "For avoyding of all future inconvenjencjes referring to the setling of poore people that may neede releife,"[1] the new order provided that any person, with or without a family, who dwelt in a town three months without receiving from the constable or from one of the selectmen notice to leave the town, gained therein a settlement. Wherever a person who had been warned to depart refused to do so, the selectmen were required to petition the next "County Court of that shiere for releife in sajd case." If the selectmen neglected to do this the new comer acquired his settlement. The county court was empowered to "heare and determine all complaints of this nature, and setle all poore persons." Where settlement could not be determined, the court was instructed to leave the person in the town where found and to direct the expense of his keeping to be defrayed out of the county treasury.[2]

[1] *Ibid.*, vol. iv, part 1, 365.

[2] In Plymouth colony, in 1639, the general court passed an order "for the preventing of Idlenesse and other evells occationed thereby." (Plymouth Colony Records, vol. xi, p. 32.) The grand jurymen of every town were thereby authorized in their several townships "to take a speciall view and notice of all manner of persons marryed or single dwelling within their several Townes that have smale meanes to mayntaine them and are suspected to live idlely and loosely and to require an account of them how they live. And such as they fynd delinquent and cannot give a good account thereof unto them that they cause the Constable to bring them before the Governor and Assistants at Plymouth, the first Court of Assistants after such delinquents shal be found out. That such course may be taken with them as in the wisdome of the Government shalbe adjudged just and equall." (Sept. 3, 1639.) As the colony grew it became more and more difficult to bring all such cases before the general court at Plymouth. In the revision of the law made in 1658, the order was so modified that the constable might bring the delinquents before the magistrate of his own town, or if there were no magistrate, before the "Celect men appointed for such purpose." (*Ibid.*, vol. xi, 90.)

In 1642 the general court at Plymouth took up the question of set-

No pauper had yet received aid directly out of the general treasury of the colony; all were either town or county charges.[1] In 1675 the colony of Massachusetts

tlement and passed an order of some length. "If hereafter," reads the order, "any Inhabitant or Inhabitants of any Towne within this Government shall receive or bring in any person or persons as is apparently likely to be chargeable to the Township (against whom just exception is made at the tyme of his comeing or within a month after) without the consent and assent of the Townsmen, in a lawfull, generall publike towne meeting the partie or parties that so received or brought them shall discharge the Town of them." (*Ibid.*, vol. xi, 40.) Any person bringing with him from England, or causing to be sent him from England, any servant or servants "which by Gods providence shall fall diseased lame or impotent by the way or after they come here," must relieve the town of any charge during the term of service—even though the master release the servant before his time. Children and elder persons "sent or come from one Towne to another to be nursed schooled or otherwise educated or to a Phisition or Chirurgeon to be cured of any disease or wound," if they fell in need, were to be supported by the township whence they came,—except where the patients came from outside the commonwealth, when the "nurse educator phisicion and Chirurgeon" were chargeable. *Three months quiet undisputed residence gave a settlement.* Each town was to make such provision for its poor as it found most convenient and suitable according to a general agreement in a public town meeting.

In 1658 provision was made for the erection of a house of correction at Plymouth, and "Captaine Josias Winslow and Constant Southworth" were "requested and appointed by the Court, together with the Treasurer, hee and they to take order with workmen and to cause provision to bee made reddy for the erection of a building to bee joyned to the prison att Plymouth, to bee a house of correction; the same to be of equall heighth with the said prison, and to bee fourteen foot in length, and to bee aded to it, and a chimny to it." (*Ibid.*, vol. iii, 137.)

In this same year Mr. Collyare, Mr. Alden, and Mr. Constant Southworth were "requested and appointed by the Court to take some speedy course to reduce Goodwife Thomas, a Welch woman, living at North River, to live more orderly, soe she bee not for the future indangered to come to missery and extremity, as formerly shee hath bine." (*Ibid.*, vol. iii, 149.) The deputies of each town were also requested to inquire and make report concerning any such persons who might be found in their respective towns.

[1] In 1660 Mr. Henry Webb left £100 to the town of Boston for the poor, and two years later Captain Kean left £120. Whereupon

Bay granted aid to the refugees from King Philip's war,[1] and this has been regarded as a precedent for the granting of aid later to those who could not be settled on any town or county for support. From time to time the commonwealth has attempted to rid itself of a portion of the burden thus assumed and to throw it back upon the towns; but the towns have usually retaliated by amplifying their charges against the commonwealth.

To resume: by 1691 our poor-laws comprised a law of settlement requiring undisputed residence in a place for three months; a law authorizing justices of the peace to adjust disputes between towns concerning the settlement of paupers; and a provision that paupers who could not be settled in any town should be chargeable either upon some county—if settled therein by the justices—or upon the colony itself. In each town the selectmen provided for those requiring aid, and performed duties which, as they became later more arduous, devolved upon special boards of overseers of the poor. Except indirectly through provisions concerning the admission of strangers as inhabitants of towns, the colonies had not dealt with the question of immigration. This question came before the general court during the first decade of the following period.

1692–1789.

The early legislation under the new charter received in 1692 and uniting the settlements under one government re-enacted provisions already in force.

Mr. Peter Olliver was ordered by the general court assembled in that town to join with the deacons of the church of Boston in receiving these and other gifts for erecting an almshouse.—"Memorial History of Boston," iv, 644.

[1] See Report of State Board of Charities, 1864, p. 236 *seq.*

Overseers of the poor, or where there were no overseers the selectmen, were to take care that "all children, youth, and other persons of able body living within the same town, or precincts thereof (not having estates otherwise to maintain themselves) do not live idly or mispend their time in loitering, but they be brought up or employed in some honest calling, which may be profitable to themselves and the publick." And if any persons "fit and able to work" loitered and misspent their time, or wandered from place to place, they were on conviction thereof before one or more justices of the peace to be sent to the house of correction and "at their entrance be whipped on the naked back by the master of such house or such other as he shall procure, not exceeding ten lashes, and be there kept at hard labour until he or she be discharged by such justice or justices or the quarter sessions of the peace for the same county."[1]

The overseers were authorized to bind out children as apprentices—the children not of paupers only, but of all those who were in the estimation of the judges unable to support their own children,—males to the age of twenty-one, females to the age of eighteen or marriage. Such children were to be taught to "read and write as they might be capable."[2] So that no single person until he came to the age of maturity might be suffered to live at his own hand, or grow up in ignorance outside family government.

[1] Acts and Resolves of the Province Massachusetts Bay, chapter 28, sec. 7, 1692–93.

[2] *Ibid.*, chapter 14, sec. 1, 1703–4. The modifications of this educational clause in the various renewals of this law are interesting. In 1710 (chapter 6, sec. 1, 1710–1) males are to be instructed "to read and write; females to read as they respectively may be capable"; in 1741 (chapter 20, sec. 1, 1740–1) "males to read, write and cypher; and females to read as they may respectively be capable"; in 1771 (chapter 5, sec. 2, 1771–2) females were to be instructed "in reading and writing, *if they shall be capable.*"

The term of residence requisite to give legal settlement remained as it had been, three months. Within three months of his coming to town any person might be warned to depart, but not after the expiration of that period. The law was, however, so amended, in the general revision of 1692, that the town could recover from any relatives—in the degrees of father or grandfather, mother or grandmother, child or grandchild—capable of aiding in the support of the person to be relieved. The justice of the peace determined what portion of the expense each relative should bear, and in making up his estimate the judge took into consideration resources as well as degrees of relationship. The amount assessed upon each relative had to be forthcoming on penalty of twenty shillings for every month of delay in its payment. Physicians and school-masters stood *in loco parentis* to those in their charge. Any person warned to depart from any town who neglected to do so for the space of fourteen days might be removed by a warrant from the next justice of the peace, and "be sent and conveyed from constable to constable" into the town where he properly belonged or had his last residence, "at his own charge if able to pay the same, or otherwise at the charge of the town so sending him."[1]

Seven years later, 1699, an act "for the Suppressing and Punishing of Rogues, Vagabonds, Common Beggars, and other Lewd, Idle and Disorderly Persons; and also for setting the Poor to work,"[2] provided for the erection of houses of correction in every county where such houses had not already been erected. Justices of the peace in each county nominated a master for the

[1] Acts and Resolves of the Province of Massachusetts Bay, chapter 28, sec. 10, 1692–3.

[2] *Ibid.*, chapter 8, 1699–1700.

county house, and passed orders for the governing of it. The court, or any justice of the peace out of the court, might commit thereto various petty criminals and distitute persons.[1] The selectmen of each town,—or in the case of children and servants, the parents or masters,—furnished materials for keeping the inmates at work. An inmate might receive an allowance of 8 *d.* in every shilling he earned; if he were the head of a family his whole earnings might go to his family, or so much of his earnings as the court should direct. Masters kept strict account of the expenses incurred for each inmate; such expenses were charged up against the towns from which the inmates came respectively—except servants and children chargeable to masters and parents. Where the earnings of the inmate, over and above the expenses incurred for relief, were insufficient compensation for the master, the justices of the peace fixed what should be paid by the town; and on the other hand, any surplus earnings were paid over to the town. The masters of these houses were to render to the justices an exact

[1] To quote at length from section 2, chapter 8, 1699, those eligible for commitment were the following:—"Rogues, vagabonds and idle persons going about in any town or county begging, or persons using any subtle craft, jugling or unlawful games or plays, or feigning themselves to have knowledge in physiognomy, palmestry, or pretending they can tell destinies, fortunes, or discover where lost or stolen goods may be found, common pipers, fidlers, runaways, stubborn servants or children, common drunkards, common night walkers, pilferers, wanton or lasivious persons, either in speech or in behavior, common railers or brawlers, such as neglect their callings, mispend what they earn, and do not provide for themselves or the support of their families." Such persons the master had authority to punish with fetters or shackles, or by moderate whipping. Unless the warrant of commitment otherwise directed, whipping was to be inflicted at the first coming in of the persons committed, "and from time to time in case they be stubborn, disorderly or idle, and do not perform their task, and that in good condition, according as they shall be reasonably stinted." (Section 3.) The master might also "abridge them of their food," as the case might require.

account of all profits and earnings; also an exact account once a year, or oftener, to the town.

The general court turned its attention to the question of immigration during the session of 1700–1701. An act of this session made it incumbent upon the master of every ship entering a Massachusetts port from any other country or colony, to deliver to the receiver of the impost a perfect list of passengers, their names and circumstances so far as known, on penalty of £5 for every passenger landed whose name was omitted.[1] Those likely to become chargeable to the town must give security, or if security could not be obtained the master of the ship must transport such persons out of the province: provided the passenger had never been an inhabitant of the province, and provided, further, that the injury or sickness had not befallen the passenger on the voyage. One serious difficulty in the administration of this act arose from the fact that in many of the ports there were no receivers, and at such places passengers might still be landed without being listed, and masters escaped the duty of carrying off the impotent and the lame. The administrative features of the law were not mended till 1722, when town treasurers and selectmen were authorized to receive the lists in ports where no receivers were stationed.[2]

[1] Acts and Resolves of the Province of Massachusetts Bay, chapter 23, 1700–1. The preamble recounts some of the conditions which brought about the passage of act: — "For the better preventing of persons obtruding themselves on any particular town within this province, without orderly admission by the inhabitants of such town, or the selectmen thereof, in manner as hereafter is exprest, and for the remedying manifold inconveniences and a great charge heretofore occasioned thereby; to the intent also that the selectmen may the more easily come to a certain knowledge of persons and their circumstances that come to reside and sojourn in such town," it was enacted that, etc.

[2] *Ibid.*, chapter 5, 1722–23. This act also required masters of coasting vessels to give lists within twenty-four hours; and attached a

One of the more important provisions of the act of 1700–1701 dealt with the old law of settlement. The term of residence which had heretofore been three months was now lengthened to twelve months.

By 1735 Boston had so far outgrown other towns in the colony that the general court passed a special act concerning the administration of its public aid.[1] The conditions which influenced the court in passing this act are set forth in the preamble, where it is alleged that Boston has outgrown the laws in force.[2] As other towns have grown in population the legislature has made similar provision for the needs peculiar to each place, au-

penalty of £100 in the case of neglect or delay—the money to be used in support of the poor of the town where the passengers were unlawfully landed.

[1] *Ibid.*, chapter 4, 1735–36.

[2] "Whereas," the preamble reads, "the town of Boston is grown considerably populous and the idle and poor much increased among them, and the laws now [in] force relating to them, not so suitable to the circumstances of said town, which are different from those of other towns in the province"—therefore, twelve overseers of the poor were to be chosen from the twelve wards in Boston, each overseer to have especial care of his ward which he must visit at least once a month. (Sec. 1.) The overseers might erect a work-house when necessary (Sec. 2), over which they should have control (Sec. 3); and any overseer might commit any idle or indigent person for twenty-four hours, and any two overseers for an indefinite time, until released by the major part of the overseers at a regular monthly meeting. (Sec. 4.) "And whereas there are sometimes persons rated to the publick taxes who are, notwithstanding, unable or negligent to provide necessar[y][ie]s for the sustenance and support of their children" (Sec. 5), the overseers were instructed to bind out such children. "And foreasmuch as there is great negligence in sundry persons as to the instructing and educating their children, to the great scandal of the Christian name, and of dangerous consequence to the rising generation,"—it was enacted that "where persons bring up their children in such gross ignorance that they do not know, or are not able to distinguish, the alphabet, or twenty-four letters, at the age of six years" the overseers bind out such children into good families, "for a decent and Christian education." (Sec. 6.) Finally the overseers had the same power of warning new comers out of town that the selectmen had. (Sec. 7.)

thorizing a town to elect overseers, fixing the number that may be elected, the form of election, term of office, duties, and powers. Usually the act is not to go into effect unless ratified by the town or city concerned. The acts themselves are seldom passed except at the suggestion of local authorities.[1]

In 1743–44 the general court made provision for the appointment of overseers and for the erection of work-houses in small towns too insignificant to be the subject of special laws.[2] Two or more towns might unite to build a work-house. In such cases the expenses of building, repairing and furnishing the house were to be borne by the towns in proportion as they were rated in the province tax at the time of building or repairing, or in such other proportion as the towns themselves should agree. Any town which refused to bear its portion of expenses lost all right to send its poor to the common work-house. Controversies between the overseers of any town and the master of the work-house were referred to the whole board of overseers in charge of the house—*i. e.*, a board made up of overseers from all the towns interested. Any three overseers of the poor in a town might commit indigent persons, in receipt of aid or likely to need it, and persons who led dissolute lives.

[1] See, for example, Acts and Resolves of Massachusetts, chapter 195, 1865 (Worcester); chapter 23, 1877 (Chelsea); chapter 41, 1877 (Cambridge).

[2] *Ibid.*, chapter 12, 1743-44. "Whereas," reads the preamble, "the erecting of houses for the entertainment and employment of idle and slothful[l] persons who refuse to exercise any lawful[l] calling or business, whereby to support themselves and famil[y][ie]s and of the poor and indigent that want means to employ themselves, may be of great advantage to the publick, and more especially to the towns that shall be concerned in such an undertaking,"—it is provided that a town may appoint five, seven or nine overseers of the poor "to have charge of the buildings, appoint masters, and assistants and make provisionary by-laws."

The able-bodied inmates were to be kept at work, and the master of the house received as wages one-third the earnings of the inmates, and whatever stipend in addition might be fixed upon by the overseers. The other two-thirds of the earnings might be turned over to the master as payment, if he were willing, or it might be turned over to the family of the inmate, or to the town, or disposed of in any other way which the town might decide. Each town had to bear the expense of supporting its own inmates, who were to be kept diligently at work during the term of their commitment. The same overseers who committed, or the overseers in a general meeting, or the justices of the general court on application, might discharge the inmates.

The houses of correction built under the act of 1699 were under the supervision of the justices of the peace. The court or any justice out of the court might commit petty offenders to confinement therein; they were penal institutions, and belonged to the administrative system of the county. The work-houses authorized by the act of 1743 were under the supervision of the overseers of the poor; they were institutions for the administration of public aid, and formed a part of the administrative system of the town. Thus the house of correction and the work-house, although both dealt with pretty much the same class of idlers and dependents, belonged each to its own distinct administrative system.

For more than a half-century the law of settlement had remained unaltered; during the 'sixties it received very material modification, and the acquirement of a settlement was made a matter of considerable difficulty. A new act was passed in 1766.[1] It somewhat extend-

[1] Acts and Resolves of the Province of Massachusetts Bay, chapter 17, 1766–67.

ed the power vested in the justices to remove unsettled persons, and authorized them to issue warrants for the removal of persons by land or by sea. In cases where the person so removed lived out of the province, the province bore the expense of his removal, provided the person himself was not able to bear that expense. The person was passed on from constable to constable, each town defraying the cost of transport over its own county and sending in an account of such charges to the general treasury of the province for allowance.

It was further enacted that after the tenth of April "next" no person might gain a settlement by any length of residence. A person desiring to become an inhabitant of any town must make known his wish to the selectmen, and obtain the approbation of the town at a general meeting of the inhabitants.

7.

1789–1851.

During the quarter of a century following the act of 1766 war and politics occupied the thoughts of the colonists. The reforms which followed the war were chiefly constitutional and political; the poor-laws, however, received their share of revision.

The close of the Revolutionary war left the country open once more for immigration, and year by year the number of destitute, ignorant, and criminal foreigners brought into the country increased until they began to press heavily upon the ways and means of public charity. The period 1789–1851 is the dark period in the history of the poor-law of Massachusetts.

As such it fittingly begins with a new act of settlement. Unfortunately those who drew up the new act ignored the new conditions in the lives of those under the law; or if the new conditions were recognized at all

it was not to adapt the law to them, but rather to combat them.[1] So that the new law was reactionary. The concentration of population in cities, the opening up of new avenues of communication, and the division of labor which made the localization of industries possible, called for a revision of the settlement law,—a revision

[1] Laws of Massachusetts, chapter 8, 1794. This act prescribed in all twelve possible ways of acquiring settlement:

1. A married woman took the settlement of her husband, if he had one in the commonwealth; in any other case she retained the one she had at the time of marriage.

2. Legitimate children followed the settlement of the father if he had one in the commonwealth, in any other case the settlement of the mother if she had one.

3. Illegitimate children followed the settlement of the mother at the time of birth if her settlement were within the commonwealth. Birth alone did not give settlement.

4. A citizen of the United States, twenty-one years of age, "having an estate of inheritance or freehold of clear yearly income of three pounds," and taking the rents and profits thereof three years successively, gained a settlement in the town where his property was situated whether he resided there or not.

5. A citizen of the United States, twenty-one years of age, assessed five years successively upon an estate set at £60, or the income at £3 12*s*, in the town where he dwelt, gained a settlement.

6. A person chosen to certain town offices for a year and actually serving, became thereby an inhabitant of the town.

7. Ordained ministers acquired settlement in the town of their residence and parish.

8. A person might be admitted an inhabitant at a legal town meeting.

9. Those dwelling in a place at the time of its incorporation, or

10. In any section of a town at the time of a division, obtained settlement in the place where they had their dwelling.

11. Any minor serving an apprenticeship of four years, and setting up business in his trade within one year thereafter, being then twenty-one years of age, and continuing five years in that business (not a journeyman), gained a settlement.

12. A citizen twenty-one years of age, who resided in a place for ten years, and payed all state, town, and county taxes for any five years thereof, gained a settlement.

Only those who had fulfilled some one of these conditions could become chargeable upon a town.

which should make the acquirement of a settlement a matter of less difficulty. This end the new law did not at all accomplish, but on the contrary it hedged about the acquirement of settlement with more complexities and difficulties than had characterized the earlier provincial law. With some unimportant exceptions it required ten years' residence, and payment of all state, county and town taxes, during five years out of the ten.

New conditions of labor, as well as simplicity and economy in administration, demanded further that a settlement should lapse on the acquirement of a new settlement. Here again the law failed. A settlement once gained was not defeated by the subsequent acquirement of a settlement outside the commonwealth, but lasted until defeated by a new settlement *within* the commonwealth. Consequently a person who removed out of the commonwealth always retained the rights of his settlement in Massachusetts, and passed them on to his children; so that he or any of his descendants forever thereafter might become chargeable upon the town where the family had originally settled. Relief officers outside the commonwealth exercised the privilege thus given them freely. Paupers born outside the commonwealth were put on some Massachusetts town in virtue of a settlement gained by some remote ancestor. Naturally under this act the pauper roll of the state lengthened.[1]

[1] There were those, too, who saw clearly the evil which resulted from the statute: in 1832-3 a legislative commission recommended its repeal. This commission believed that the state poor might better be left to the care of cities, towns, and counties. It proposed that the state make grants to the towns, or to such relief districts as might be established, in proportion to population, for building work-houses, etc.; and further that the state take measures to secure approved plans for such houses and furnish the towns or relief districts therewith. Recommendations urging upon the legislature such radical

A law of 1789[1] had authorized the town to commit to the work-houses foreigners and other persons not legally settled, and to exhibit to the general court an account of the expense thus undergone—less the earnings of the inmates—for allowance out of the state treasury. The commonwealth made no direct provision for the relief of unsettled persons, but left the administration of such relief to the towns, which were reimbursed out of the state treasury. And the towns drew upon the common treasury pretty liberally. During the period 1791–1820, according to a report made by Mr. Josiah Quincy, the burden of the state increased five-fold, while the population did not double. Such an increase in the number of state paupers, relatively to the town and county poor, resulted naturally under a law which made it very difficult for new comers to gain settlements. Nevertheless the law remained practically unaltered until after the middle of the century.[2]

action naturally failed: the legislators feared—possibly they were justified in fearing—that the repeal of all settlement laws might lead to confusion and trouble. It is certainly true, however, that the repeal of these laws at this time would have removed one fruitful source of expense, litigation, and suffering. Legislators see more readily the benefits to their respective towns arising from a law of settlement which leaves numerous poor dependent upon the charity of the state, than the benefits to the commonwealth and thus indirectly to the towns, arising from a simple and humane local administration of public aid which avoids the needless expense undergone first in the collection of necessary funds by the commonwealth, then in the disbursement of those funds through irresponsible agents. Considerable leakage can hardly be avoided where so many transfers take place.

In 1830 a commission appointed by the legislature prepared a table of the amounts expended by the state each year from 1793 to 1830: in 1793 the state expended $14,424.71; in 1801, $28,100.08, or about double the amount expended in 1793; in 1811 the amount was $52,129.92; in 1820, $72,662.54 (in this year the separation of Maine and Massachusetts was effected); in 1830, $66,583. (Report of the Board of State Charities, 1864, p. 236 *et seq.*)

[1] Laws of Massachusetts, chapter 32, 1789.

[2] An amendment, of small importance (chapter 94, 1822) repealed

The old law requiring masters of vessels to file a list of their passengers with some magistrate in port, and to give bonds, came up for re-enactment and revision in 1820. It was entitled "An Act to prevent the introduction of Paupers from foreign ports or places."[1] Masters were required to leave with overseers of the poor or with selectmen a list of passengers, and of their places of residence, under penalty of $200. If any passenger seemed likely to become chargeable, the master must within five days enter into a bond, not exceeding $500 for each passenger, to "indemnify and save the town harmless." In case the person became chargeable any one might bring a suit against the master for the amount of the bond, half of which went to the commonwealth and half to the prosecutor. Eleven years later the amount of the bond was reduced from $500 to $200.[2] One or more of the owners of the vessel, if resident in the town where the passengers were to be landed, might sign this bond with the master, to save not only the city and the town, as provided in the former act, but "also the Commonwealth of Massachusetts from all manner of charge and expense" which might arise "during the full term of three years then next to come." The mayor and aldermen, or the selectmen, to whom the master was required to give his list of passengers, in cases where no public charge seemed likely to follow, might dispense with the bond; or the master might if he chose pay five dollars into the town or city treasury for each alien landed, and if he chose so to do no bond

a portion of section 2, chapter 8, 1794, substituting a provision that a citizen twenty-one years of age, having an estate of inheritance or freehold in any town, district, or city, might gain a settlement by living on the same three years successively.

[1] *Ibid.*, chapter 290, 1820.

[2] *Ibid.*, chapter 150, 1831.

could be required of him. If the master with the intention of evading the act landed a passenger at some other port than that for which his vessel was destined, he forfeited $100 for each passenger so landed. If any landing were made at the regular port in contravention of the act the master, owner or owners, consignee or consignees, of the vessel severally forfeited the sum of $200 for each passenger so landed.

As immigration into the state increased each year the duties imposed upon the local officers became more onerous, until in 1837[1] the legislature ordered that there be appointed in each seaport, by the local authorities, a special officer to conduct the examinations on board all vessels entering with alien passengers. It was enacted that no "lunatic, idiot, maimed, aged or infirm persons, incompetent in the opinion of the officer so examining, to maintain themselves, or who have been paupers in any other country," be allowed to land until a bond was put on file, for $1,000, that such indigent person should not become a town, city or state charge within ten years. No other alien passenger might land until the master, owner, consignee or agent paid two dollars to the officer, to be used by the city or town in support of its foreign paupers. In 1840 the legislature required town and city treasurers to make annual returns of monies received from alien passengers, and of money expended in their relief and support; and required them further, on penalty of $500, to pay into the treasury of the commonwealth any balance of such monies remaining unexpended at the end of the year[2].

[1] *Ibid.*, chapter 238, 1837.
[2] *Ibid.*, chapter 96, 1840.

Heretofore the administration of the alien-passengers acts had been left to the towns, but the interests of the commonwealth were obviously involved, since great numbers of the aliens came upon the commonwealth for support. Accordingly the legislature authorized the governor, in 1848,[1] to appoint in the cities and towns where he deemed the presence of such officials necessary—presumably in the larger ports—superintendents of alien passengers to execute the law,—*i. e.*, to notify pilots and carry on examinations. The governor fixed the salary of these officials with the sole provision that the salary never exceed the amount of alien-passenger money collected at the port. Masters of vessels were required to report within twenty-four hours to these superintendents the name, age, sex, occupation, with last place of residence and condition of each passenger. The provisions regarding the bonding of lunatic and indigent passengers, the collection of two dollars head money on all aliens landed, remained as provided in former acts, except that the $1,000 bond was henceforth to be a guarantee that the person bonded should *never* become a town, city, or state charge. Any sick or needy passenger whom the master would neither bond nor aid might be landed, and if such person became chargeable within ten years, the town or city might bring an action against the master for all expenses incurred. The superintendents were to render quarterly accounts to the state treasurer, and to pay into the state treasury any surplus over their salary.[2] In 1850 the

[1] Acts and Resolves of Massachusetts, chapter 313, 1848.

[2] The act further instructed the state treasurer to publish and forward to every city and town in the commonwealth, in May, September, and January, an abstract of information concerning alien passengers. In towns where the governor appointed no superintendent, the overseers of the poor performed the duties prescribed by the act. For each passenger landed in contravention of the act the "master or commanding officer, and the owner or consignee" severally forfeited $500.

commonwealth assumed all liabilities in the support of bonded paupers, reimbursing the cities and towns for the support of such. It became therefore the duty of the state treasurer to recover from the signers of the bonds, the obligors.[1]

The need of a central auditing and supervising board had long been apparent and it now became a pressing one. Such a board was created in 1851. The legislature authorized the governor to appoint one member of his council, the auditor of accounts, and the superintendent of alien passengers for the city of Boston, a commission to superintend the execution of the laws regarding the introduction of aliens into the state and the support of state paupers therein.[2] The legislature authorized this commission to appoint one or more persons whose duty should be to ascertain the names and such other information as might lead to identification of foreigners brought into the commonwealth by land; and provided, further, that persons might become chargeable, any time within one year after their arrival, upon corporations or other parties bringing them into the commonwealth.

The examination of charges brought against the commonwealth by towns for the support of state paupers formed one of the chief duties of the new "Board of Inspectors in Regard to Alien Passengers and State Paupers."[1] The law required of each town that it accompany its accounts with certain certificates and statements, evidence that the aid granted had been such as might lawfully be charged upon the commonwealth.[3]

[1] Acts and Resolves of Massachusetts, chapter 105, 1850.

[2] *Ibid.*, chapter 342, 1851.

[3] In 1799 (February 26, 1799, chapter 32) the law required overseers on making application to the general court for reimbursement to exhibit a certificate setting forth the place from which the person aided

In the absence of such evidence, the state made no allowance. Even when it appeared that the charges had been justly brought, the state did not undertake to reimburse the towns in full for amounts expended by them in support of state poor. Since 1820 they had been allowed to charge at certain rates per day or week fixed by statute. The earlier rate had been such that the towns had been able to recover pretty nearly the total amounts expended by them in the support of state paupers. Under the act of 1820,[1] the first act fixing a maximum rate of reimbursement, the state allowed for board one dollar a week for adult paupers, and for children fifty-five cents. During the following year this allowance was cut down to ninety cents for adults and to fifty cents for children, per week.[2] In 1831 the rate was still further cut down.[3] It became ten cents a day for paupers over twelve years of age, and six cents a

came, the time and place of residence in the commonwealth, and that the person had not gained a settlement in any town in any of the ways prescribed by the act of settlement of 1794; also that he had no kindred liable for his support, etc. Again, in 1823 (February 10, 1823, chapter 81), the legislature ordered overseers to certify that no charges made were for the support of any male person able to labor, above the age of twelve and under the age of sixty. And again, in 1844 (chapter 119), that accounts presented be certified to under oath or affirmation by a majority of the selectmen or overseers of the poor, that the amount charged for had been expended in accordance with the law, and that every person for whom charge was made had been "actually and entirely supported the whole number of days specified in such claims." It was ordered further that separate returns be made concerning state paupers sick with infectious diseases, and also concerning lunatic state paupers. (Chapter 151, 1849.) Returns not rendered to the treasurer of the commonwealth within the time fixed by law were not allowed at all in certain cases, and when allowed were reduced by a certain per cent. in proportion to the delay.

[1] Laws of Massachusetts, chapter 289, 1820.

[2] *Ibid.*, chapter 20, 1821.

[3] *Ibid.*, chapter 120, 1831.

day for others. It was reduced to seven and four cents respectively in 1835.[1]

The establishment of low maximum rates of board chargeable by the towns considerably reduced the amount annually expended by the commonwealth for its poor, but did not in any way tend to diminish the rate of increase in the number of state paupers; that increase remained a matter of deep concern in 1851, as it had been in 1821.[2] The law of settlement had been

[1] *Ibid.*, chapter 127, 1835. The legislature established in 1845 (chapter 114, Resolves, 1845) a kind of sliding scale of reimbursement for support of state lunatic paupers. For some twelve or thirteen years the commonwealth had owned and managed a lunatic hospital at Worcester. To this hospital towns might send their lunatic paupers to be boarded along with the state wards at cost, or even "as a bounty upon humane efforts for prompt relief of poor patients recently attacked by insanity," at less than cost. (Chapter 163, 1832.) Often, however, considerations of economy, or other special reasons, as well as want of accommodations at the hospital, made local wardship of a state lunatic advisable. Accordingly in such cases the state allowed for support during any term not exceeding thirteen weeks, $2.50 per week; for any term exceeding thirteen weeks and less than twenty-six weeks, $2.25; for any longer term not exceeding one year, $2.00; and at the rate of $100 a year for a term of a year or upwards. In no case, however, might the charge exceed the amount paid out by the town. (Chapter 114, Resolves, 1845.)

[2] During the decade 1830–1840 the average yearly charge upon the commonwealth, exclusive of the expenses incurred by the state lunatic hospital, was about $50,000. During this decade, however, the maximum rate of board chargeable to the towns per pauper was reduced, as noted above, from ninety to forty-nine cents for adults, and from fifty to twenty-eight cents for children. Thus while the total amount expended by the state decreased, the number of state paupers had really increased, and during the next decade, 1840–1850, that increase was sufficient to raise the average yearly charge to $70,000, which represented considerably more than double the number of paupers supported in 1820 on $72,000. In 1850 Governor Briggs prepared a statement for the legislature showing that in eleven years, 1837–1848, there had been expended for state paupers a total of $895,706.41, or on the average more than $81,000 a year; of this sum the towns had paid $251,252, and the state $644,454. In the same time the number of state paupers had increased, according to Governor Briggs, from 4,846 in 1837, to 9,431 in 1848; while the number of town paupers had

framed to meet the needs of an agricultural community with a population comparatively fixed, and was ill adapted to the wants of a growing manufacturing community with a large floating population. The proportion of unsettled to settled poor became each year greater.

Moreover it proved on investigation that there had been systematic cheating on the part of the town officials.[1] The legislative commissions which had been appointed from time to time to audit the bills sent in had been unable to audit them in the time allowed and had gotten, by 1850, several years behind. When the task of auditing these bills was passed over to the alien commissioners they found claims unjustly made against the commonwealth amounting to $22,330.80. Certain towns were reported to have charged for dead paupers as still living, or to have charged a whole family upon the state for the winter, when only slight temporary aid had been rendered, or no aid at all. Careful investigation reduced the number of state paupers to 10,267.

It was not difficult for the towns to impose thus upon the commonwealth. The policy followed made any systematic treatment or classification of the state paupers impossible: each town cared for the poor entrusted to it after its own peculiar manner, and charged for that care all that the law allowed, or more. No reliable returns could be secured from the town officials, owing in part to the indifference of the officials and in part to the lack of any competent central board. The statutes di-

hardly increased at all. The number of foreign-born paupers had increased from 2,870 in 1837, to 7,413 in 1848. The increase in population during the period considered was about 33 per cent. By 1851 the number of state paupers had risen to 16,154. (See Annual Report of the Board of State Charities, 1864, 235–309.)

[1] See Reports of State Board for 1882 and 1884.

rected the state treasurer to send out circulars of interrogatories to the towns, but these were often ambiguous and, where not so, were generally misinterpreted willfully or negligently, or were not answered at all, by those to whom they were addressed. It followed that the returns made from the towns, previous to the organization of the board of state charities in 1863, are unreliable. It was the interest of each town official to rid himself and his town of as much expense as possible, and to get as much as possible out of the commonwealth. The system of administration by local officers acting under no careful general supervision was both extravagant and vicious. It left the commonwealth at the mercy of the towns and put a premium on pauperism.

1851—1895.

The growth of pauperism in the commonwealth during the first half of this century has been attributed by some to the system of administration which left state paupers to be cared for by town officials. This system of farming out the state paupers had by the middle of this century become an object of general distrust. Others, although they did not hold the old system accountable for the evils apparent, yet hoped some good might come of new methods, and were willing to see an experiment tried. In 1821 Josiah Quincy conducted an investigation into the methods of caring for the poor in the commonwealth, and came, among others, to the following conclusions, which I give in his own words:—

1. That of all modes of providing for the poor, the most wasteful, the most expensive, and most injurious to their morals and destructive of their industrious habits, is that of supply in their own families.

2. That the most economical mode is that of Almshouses, having the character of workhouses, or houses of industry, in which work is provided for every degree of ability in the pauper, and thus the

able poor made to provide, partially at least, for their own support; and also the support, at least the comfort, of the impotent poor.

3. That of all modes of employing the labor of the pauper, agriculture affords the best, the most healthy, and most certainly profitable; the poor being thus enabled to raise always at least their own provisions.[1]

In 1830 a legislative commission recommended the purchase of a state farm of five hundred acres and buildings thereon. A commission in 1832 recommended state almshouses, and in the same year the state Lunatic Hospital at Worcester, already referred to, was opened. There were at this time three institutions owned and managed by the state; these were (1) the State's Prison at Charlestown, (2) the Hospital, then out of repair, upon Rainsford island in Boston harbor, and (3) the new Lunatic Asylum at Worcester. Other institutions, such as the Massachusetts General Hospital, the Massachusetts Asylum for the Blind, and the Massachusetts Eye and Ear Infirmary, received aid from the state, but received it as private institutions.

For the management of the new hospital the legislature provided as follows:[2] The governor appointed a board of five trustees. The trustees appointed a superintendent, who served also in the capacity of a resident physician; and they appointed also a treasurer. Subject to the approval of the governor and council the trustees fixed the salaries of these officials. One or more of the trustees must visit the hospital once a month, a majority semi-annually, and the whole board yearly. Each visitor gave an account to the whole board at its regular annual meeting of visits made by him; and the board prepared a yearly report for the legislature.

[1] Quoted in "Municipal History of the Town and City of Boston," by Josiah Quincy, p. 36.

[2] For provisions concerning the opening and management of this hospital, see Laws of Massachusetts, chapter 163, 1832; chapters 1 and 95, 1833.

When the hospital was opened, the legislature ordered that all lunatics confined in any county jail or house of correction be removed there under direction of the county commissioners in the several counties, and of the mayor and aldermen in the city of Boston, at the expense of the said city and counties respectively. And it was further provided that town lunatic paupers might be received on certain terms until the institution was full. The board of trustees, or "either of the justices of the Supreme Judicial Court, and the Court of Common Pleas, at any term of said courts holden within and for the county of Worcester," might, on application made in writing therefor, discharge from confinement any inmates of the institution. The trustees received no other compensation than an allowance to defray the expenses of their "visitations." The two senior trustees retired annually.

A reform school was opened at Westborough in 1847,[1] and a new lunatic hospital at Taunton in 1851,[2] but still the great mass of state paupers remained in the charge of town officials. The feeling that something must be done effectively to check the growth of pauperism led to decisive action in 1852.[3] At this time the legislature created a special commission of three persons, appointed by the governor, and authorized to select sites—one in Essex or Middlesex county, one in Bristol or Plymouth county, and one in some town west of Brookfield,—and to make contracts for building three almshouses. Each of the buildings was to be fitted to accommodate five hundred inmates with attendants; and to be provided with a work-shop. The counties of Suffolk, Middlesex,

[1] Acts and Resolves of Massachusetts, chapter 165, 1847.
[2] *Ibid.*, chapter 318, 1853.
[3] *Ibid.*, chapter 275, 1852.

and Essex were to send their state paupers to the house to be erected in Middlesex or Essex; the counties of Norfolk, Bristol, Plymouth, Barnstable, and Nantucket or Dukes, to the one in Plymouth or Bristol; the remaining counties to the one west of Brookfield. The legislature authorized the governor to appoint for each house, when completed, a superintendent with a salary of $1000 and right of residence with family; also to appoint for each house three commissioners, with salaries of $100, to inspect the house and make regulations. Some one commissioner must visit each house at least once a week. Paupers were to be admitted to these houses on a certificate signed by the mayor of the city or the overseer of the poor of the town whence they came, that they were state paupers. It was specially ordered that no town send to a state almshouse any pauper lunatic of a dangerous character. If an inmate of the almshouses became lunatic he was to be transferred to one of the state lunatic asylums. Justices of the peace were given power to order the removal of a pauper lunatic on complaint of the trustees of the several state lunatic asylums, county commissioners, the inspectors of the almshouses, or overseers of the poor.

The almshouses opened on May 1, 1854. The building commissioners had also put in repair the hospital on Rainsford island, for accommodation of alien passengers sick with infectious diseases, or who could not for any other reasons be removed to one of the state institutions.

The duty of transporting paupers to the state institutions rested with the towns. For a time the state reimbursed the towns for this expense,—paying at first five cents per mile to the institution, and later assuming the actual expense incurred in effecting the transportation,

—but in the end the towns were left to bear the whole expense of transportation except where the distance exceeded a certain limit, in which case the state bore a portion of the charge.

In cases where a husband and wife would be separated by the action of the law, one having a settlement in a town and the other having no settlement, it was provided that both might be supported at the town almshouse: the expense of thus supporting the state pauper to be audited by the inspectors of the almshouse to which the pauper should have gone.[1] Towns were also allowed three dollars a week for the support of sick state paupers, the physician of the state almshouse to which the pauper should have gone being a judge whether or not the pauper was too sick to be removed to the state institution.[2] Finally, towns were liable for support at a state almshouse, by mistake, of settled paupers.

The bringing together of the state poor into institutions was a first step toward some adequate classification of such paupers, according to need, character, age, sex, and intelligence. The differentiation possible under an institutional administration of charity is perhaps the chief excellence of such a system. Where large numbers are dealt with it becomes possible to separate the old from the young, the vicious from the worthy, the sane from the insane, the curable from the incurable. As the numbers dealt with increase the differentiation may be carried on indefinitely. Before the opening of

[1] Acts and Resolves of Massachusetts, chapter 172, 1855.

[2] *Ibid.*, chapter 171, 1856. This act was repealed in the following year (chapter 129, 1857), and no provision made for the local relief of sick state paupers until 1865. The abuses which arose from the transportation of sick paupers to a state almshouse, as well as the dangers from contagion, led to a reenactment of the provision for local relief in 1865 (chapter 162, 1865).

state institutions rogues, vagabonds, lunatics, and idiots, of both sexes and of all ages, had been thrown together in the county houses of correction (which often served also as county jails), or in town almshouses or workhouses. The economy of dealing with large numbers is considerable and the grouping makes possible a more adequate provision for the needs of each class of dependents than could otherwise be made. In the establishment of lunatic hospitals at Worcester and at Taunton, and of a reform school at Westborough, the commonwealth undertook to relieve local authorities of some of their more troublesome charges.[1] In 1855 the state almshouse at Monson was set apart as a school for pauper children, four to sixteen years of age, neither lunatic nor idiotic. Adult inmates of other institutions might be selected to do the domestic work at the school —mothers of children being selected when possible, regard always being had to their moral fitness to be associated with children. The counties which formerly sent their paupers to Monson now sent them to Bridgewater and Tewksbury. From Monson boys and girls of twelve or fourteen could be indentured into good families.

The duties of the board of alien commissioners became each year more arduous. It is significant that the only central board of administration in the state, the board which investigated disputed settlements, removed unsettled paupers from the state, and exercised general supervision over the state charitable institutions, should be known as the board of alien commissioners. The explanation is, however, simple—more than four-fifths of the state paupers at this time were either aliens or of

[1] Acts and Resolves of Massachusetts, chapter 412, 1855.

foreign parentage.[1] In 1856 the legislature took occasion to define carefully and considerably to extend the powers of the board. It gave the board authority to transfer inmates of either of the state almshouses, or of the hospital at Rainsford, or either of the state lunatic hospitals, from one institution to another; also to discharge inmates, and to send them to other states where they might belong; or even to remove a person having a permit from the town overseers to become an inmate of any state almshouse to any place where such person might have a legal settlement, or friends willing to support him—if in the estimation of the commission such removal would be for the good both of the pauper and the commonwealth.

Of the new system providing for the state poor in state institutions, great and immediate results had been expected. After four years of experiment the results seemed not altogether satisfactory. A feeling of doubt and disappointment took possession of the legislature, leading in 1858 to the appointment of a legislative investigating commission. The disappointment arose in part from the failure of the new system to reduce the number of the state paupers. That class of dependents had been on the increase.[2]

[1] *Ibid.*, chapter 295, 1856. This act gave the board of commissioners on alien passengers and state paupers all the powers and obligations of the former board of commissioners in relation to alien passengers and state paupers (chapter 342, 1851), and further such power over those under its care, as overseers of the poor might exercise over town paupers.

[2] The average number of state poor in state institutions each year since 1854 had been as follows:

1854	1859
1855	2538
1856	2694
1857	2642
1858	3254

With this increase in the number of state paupers had come also an increase in the expense to the state of supporting each individual, since that expense was no longer shared as formerly it had been with the towns. The almshouse officials had not exercised sufficient discrimination and care in admitting applicants. Many admitted were afterward found to have settlements. Some of the legislators were now ready to abandon the new system as a failure, and urged a speedy return to the old town-administration system. The friends of the new order, however, prevailed, and the board of alien commissioners, by virtue of the new powers conferred upon it at this time, in the next few years did away with some of the abuses which had crept into the state administration. It used these new powers so judiciously that in 1863 the legislature saw fit to create a still more powerful central board, the board of state charities.[1]

The board of state charities was composed of five persons appointed by the governor, each for a term of five years, one member retiring each year. These persons served without other compensation than their travelling expenses. The governor appointed also a secretary, and a general agent, each for a term of three years on a salary of $2,000. The duties of the general agent, performed subject to the direction and control of the board, were, to quote the act, "to oversee and conduct its outdoor business, especially the examination of paupers and lunatics, to ascertain their places of settlement and means of support, or who may be responsible therefor; the removal of paupers and lunatics to their usual homes, the prosecution of cases of settlement and bastardy; the collection of immigrant head-money and the bonding of suspicious persons, and all and singular the

[1] *Ibid.*, chapter 240, 1863.

duties now devolved by law upon the superintendent of alien passengers for the City of Boston."[1] The secretary was to keep an account of the proceedings of the board, and to perform such clerical work as they might require. He "shall," continued the act, "examine returns of cities and towns, in relation to the support of paupers therein, and to births, deaths and marriages; and shall perform a series of interrogatories to several institutions of charity, reform, and correction, supported wholly or in part by the Commonwealth, or the several counties thereof, with a view to illustrate in his annual report the causes and best treatment of pauperism, crime, disease and insanity."[2] The duties of the whole board were thus defined: "They shall investigate and supervise the whole system of public and correctional institutions of the Commonwealth, and shall recommend such changes and additional provisions as they shall deem necessary for their economical and efficient administration. They shall have full power to transfer pauper inmates from one charitable institution or lunatic hospital to another, and for this purpose to grant admittances and discharges to such pauper inmates, but shall have no power to make purchases for the various institutions."[3] The board of alien commissioners, and the office of alien passengers for the city of Boston were abolished, and their duties devolved upon the new board. In 1879 the state board of health, the board of state charities, and the subordinate boards of trustees and inspectors of the several state institutions were abolished, and in their place was created a new consolidated "Board of Health, Lunacy, and Charity." In

[1] Acts and Resolves of Massachusetts, chapter 240, section 2, 1863.
[2] *Ibid.*, section 3.
[3] *Ibid.*, section 4.

1886[1] the present board of health was created, and the central supervising board of charity became the "State Board of Lunacy and Charity."

At the time of its creation in 1863 the board of state charities organized four departments, each administered under a deputy and assistant:

(1) Department of immigration, which assumed the duties of the superintendent of alien passengers (except those performed by the fourth department).

(2) Department of settlement and bastardy: entrusted with examination of paupers and lunatics, the prosecution of cases of bastardy and the relieving of the state of such as were not its legitimate charges.

(3) Transportation: to have charge of the removal of paupers to their homes, or to the state where they belonged and to effect such other transfers as the board might direct.

(4) Department of boarding officers: to board vessels, examine passengers and collect head-money.

In 1879 the board reorganized and portioned its duties among four departments—health, lunacy, in-door poor, out-door poor. In 1886 the department of health was abolished, and the department of lunacy came under an "inspector of institutions"; the departments of in-door poor and out-door poor, remained unaltered.

By 1865 the policy of the board had taken definite shape as is clearly shown by the recommendations made to the legislature in the annual report for that year. The board recommended (1) the removal of the insane and idiotic from association with the sane; (2) the removal of children from association with adult paupers; (3) the removal of the worthy from association with the sturdy beggar and criminal paupers; and (4) the estab-

[1] Acts and Resolves of Massachusetts, chapter 101, 1886.

lishment of a work-house as supplementary to the almshouse, and perhaps to the reformatories.[1] These recommendations were conservative: they but gave expression to conclusions universally justified by experience—that the vicious should not be housed with the worthy, the young with the old, nor the imbecile with the intelligent; that each class of dependents requires special care, special discipline, and special teachers or tutors.

In the year following the submission of these recommendations, in 1866, a portion of the almshouse at Bridgewater was made into a work-house. In 1872, the almshouse was altogether discontinued, and the institution converted into a work-house, as the almshouse at Monson had been into a school for pauper children. "Upon complaint of the overseers of the poor in any city or town, trial justices and justices of the police and municipal courts" might in their discretion commit petty offenders convicted before them to the work-house at Bridgewater for a term not less than six months nor more than three years. The board of state charities was given the same authority over inmates of the work-house to discharge and remove, that overseers of houses of correction had over houses of correction. Those committed to the work-house, having a settlement in the commonwealth, must be supported by the place of settlement, charge being made with reference to the ability of the inmate to work. The state work-house thus resembled the county houses of correction in this, that commitment could be made to it only through sentence of some justice. The board of state charities might from time to time select from the paupers at Tewksbury such as were able by their assistance in domestic labor at the school or the work-house to contrib-

[1] Second Annual Report of the Board of State Charities, 1866, xcix.

ute to their support; but the board had no power to transfer as a punishment. Thus in place of the three almshouses established by the act of 1852, the state had now an almshouse, a work-house, and a school for pauper children.

In 1872 the legislature authorized the governor to appoint three women to be an advisory board to the several boards of inspectors of the state almshouse at Tewksbury, the reform school at Westborough, and the primary school at Monson. This board was to visit these institutions as often as once a month and its members were to have access at all hours of day and night to all appartments occupied by women and children. They were to make quarterly reports of the "condition, treatment and needs of the inmates of the said institutions with suggestions and recommendations," and an annual report to be given in to the legislature with the annual report of the inspectors of the several institutions. The advisory board of women acted independently of the regular boards of inspectors for each institution. In 1884[1] the regular boards of inspectors for the state almshouse and for the state work-house were both abolished and the governor authorized to appoint one board, consisting of five men and two women, a board of trustees for both institutions. This board was given power to transfer, with the approval of the state board of health, lunacy, and charity, inmates from one institution to the other.

Upon the opening of the state institutions in 1854 all outside relief by the state stopped. Later some provision was made for the relief of the sick poor at the places where they fell sick but the inelasticity of the law often embarrassed local administrators. Unsettled pau-

[1] Acts and Resolves of Massachusetts, chapter 146, 1884.

pers could not be aided in local institutions nor in their homes, but must be sent to a state institution, which might be at a considerable distance. This led often to the permanent pauperizing of a family which might otherwise have got on with small temporary aid administered by the local authorities. Accordingly it was provided that temporary aid might be given in the towns and cities to unsettled persons, and the legislature bound the commonwealth to reimburse, provided notice were given to the general agent of the state board of charities, "who," continued the act, "in person, or by one of his assistants shall examine the case and direct the continuance of such aid, or removal to the State Almshouse or to some place outside the Commonwealth"; and "provided also that except in cases of sick State poor" aid be not for more than four weeks at a time or for more than one dollar per person or five dollars per family.[1] In 1891 this clause was so amended that temporary aid might be given at the above rates for a term not exceeding four weeks between May 1 and November 1 and eight weeks between November 1 and May 1.[2] By 1882 the number supported or temporarily aided under the sick-poor and temporary-aid laws was reported greater than the whole number of admissions at Tewksbury and Bridgewater.

It has been estimated that the granting of out-door relief has saved the commonwealth the expense of building a new almshouse; and it is thought that while the number of paupers coming upon the state may be increased by offering such relief, the amount of relief granted in each case is much less, very few of those receiving temporary aid appearing more than once in the

[1] Acts and Resolves of Massachusetts, chapter 183, 1877.
[2] *Ibid.*, chapter 90, 1891.

state's accounts. The pauperizing of a household, which might result from removal of any of its members to a distant state institution, is often prevented by permitting local officials to administer a little timely aid to bridge over such temporary needs as result from sickness or accident or lack of employment. Bills sent in by the cities and towns for aid granted under the temporary-relief and sick state-poor laws, like other bills contracted in the several departments of the state board, are first examined and corrected by the heads of the several departments respectively, then audited by the clerk of the board, and finally submitted to the auditor of the commonwealth for approval.

The report of the board of state charities for 1864[1] recommended "That the State ought not to establish any more institutions to be exclusively supported from the public treasury, but rather, when new necessities arise, provide for them by assisting private charity, or the municipal organizations." Especially in dealing with children the board has favored relief outside institutions. Consequently children have been detained as short a while as possible in schools and reformatories, and only until they could be placed out in families. Children, when so placed out, have been kept under careful supervision, and regularly visited. In 1879 the legislature instructed overseers of the poor in cities to place children over four years of age in respectable families, or, if insane, in an asylum, and declared it unlawful to detain such children in almshouses, if possible to care for them without inordinate expense in families.[2]

[1] Annual Report of the Board of State Charities, 1864, p. xli.

[2] Acts and Resolves of Massachusetts, chapter 103, 1879. Chapter 197, 1893, extends the provisions of this act to include children in towns as well as those in cities. Wherever the local authorities neglect for two months to place out children over four years of

The state board had authority to board out unsettled poor children till they came to the age of ten, the state paying one dollar and a half a week and an allowance not to exceed fifty cents a week for clothing. The state did not pay board for children above the age of ten, although such children might remain placed in families and under the care of the state board until they came of age.

The immigration law remained practically unaltered down to 1872, in which year a decision of the Supreme Court of the United States caused some temporary confusion. The court decided all state immigration laws unconstitutional and void. Upon the rendering of this decision the Massachusetts state board conferred with the New York state board, and with representatives in Congress. In 1882 Congress passed a general immigration law[1] similar in many respects to the nullified Massachusetts law, but less effective. The national law laid a tax of fifty cents head-money on aliens landed in our ports, to be paid into the United States treasury "to defray the expense of regulating immigration under this act, and for care of immigrants." The Secretary of the Treasury was authorized to contract with such state commission, board, or officers as the governor of each state might designate, to take charge of the local administration of the law.[2] The act prohibited the land-

age, the state board takes charge of such neglected children, placing them in families, visiting them, and providing for them at the expense of the town. Out of 2,564 children under the supervision of the board on September 30, 1894, 2,041 were placed in families, and of these 582 were at board, and 1,459 placed in families without payment of board.

[1] For the text of this law, and other national immigration laws, see Appendix I.

[2] For the form of the present agreement between the Massachusetts board and the Secretary of the Treasury, see Appendix III.

ing of idiots, lunatics, and convicts, but prescribed no penalties for landing such persons; and when the ship's surgeon refused, as sometimes he did, to receive such persons on board for the return voyage, there seemed to be no remedy. In 1884 Congress provided that no head-money be levied on immigrants from Nova Scotia, Prince Edward Island and New Brunswick—a modification of the law not regarded with much favor in New England, where the great majority of such immigrants landed.

Some modifications of the law of settlement, made in the course of the last twenty years, in answer to the urgent demands of the state board, deserve notice. The act of 1766, already considered, made it impossible for any person to gain a settlement by residence alone. This principle held even after the act of 1794; the payment of taxes, or possession of property, together with residence for a certain time, being the common conditions of settlement. Residence alone still gave no settlement; and this remained true down to 1870. In that year the legislature allowed residence to give a settlement in the case of an unmarried woman, twenty-one years of age, who resided in any place ten years.[1] In 1874[2] the settlement law was so amended that any person who resided in a place *five* years, and paid all state, county, city and town taxes duly assessed on his poll or estate for any three years within that time, and any woman of twenty-one years of age who resided in a place five years together *without receiving aid as a pauper* gained a settlement.[3] In 1878[4] the law was further

[1] Acts and Resolves of Massachusetts, chapter 392, 1870.

[2] *Ibid.*, chapter 274, 1874.

[3] The state board has recommended that the term of residence, in case of unmarried women, twenty-one years of age, be further reduced to three years.

[4] *Ibid.*, chapter 190, 1878.

modified and provided that any person having an estate of inheritance or free-hold, and living on the same three successive years, gained a settlement. And it was provided also that if any person aided reimbursed the town or city within five years, the receipt of the aid should not then prevent the acquirement of settlement.

In consequence of these successive modifications of the law the number of state paupers in institutions has not materially increased during the last thirty years, while the number of town paupers has increased rapidly. The total number of state poor in institutions in 1854 was 2,150, in 1894 it was only 2,659; the total number of town and city poor in almshouses, hospitals and asylums in 1854 was 3,824, in 1894 it had increased to 7,932. On the other hand, there has been an increase in the number of poor partially supported by the state, as well as in the number partially supported by the town. In 1864 the state partially supported only 169 paupers, in 1894 it partially supported 29,200; the towns and cities partially supported in 1864 approximately 21,000, and in 1894 between forty and fifty thousand.[1]

In almost every case where the poor law of the commonwealth has been modified since 1863, it has been done at the recommendation and suggestion of the state board. The recommendations of this board have been made generally after careful investigation of the administration of public relief at home and abroad.

It appears from the above account of the administration of relief in Massachusetts that one cannot infer from the names of the three departments under which the work of the state board is carried on, the nature of

[1] See tables in Report of the State Board of Lunacy and Charity for 1894.

the duties assigned to each department. The department of indoor-poor does not confine itself to the supervision of poor confined in institutions; a large share of its work consists in visiting children placed out in families. The department of out-door poor has charge of the state poor confined in city institutions of Boston; while the inspector of institutions inspects private families where state patients are boarded. In general one may say, however, that the department of indoor-poor has charge of the poor in institutions, and of children over three years of age placed in families; the department of out-door poor has charge of the sick state poor, of those temporarily aided by town officials, and of children under three years of age in families; and that the third department is one of general inspection.

The relations of the state board to the local boards of overseers of the poor are complex. The auditing of accounts sent in by the towns for aid granted to the unsettled sick and aged who cannot be removed, to persons requiring only temporary aid, and to foundlings and destitute infants, leads now and then to ill-feeling. The state board has authority, which it does not hesitate to use, to cut down the amounts claimed by the towns, and the interests of the commonwealth not infrequently conflict with the interests of individual towns and cities. Such a law as the act of settlement passed in 1874, which settles upon towns and cities a number of paupers before chargeable upon the commonwealth, always arouses opposition among local authorities. It is not always easy to interpret the various statutes of the commonwealth consistently, since the language used in them is often susceptible of several meanings. The settlement laws are especially ambiguous, and every new provision or modification introduces new complexi-

ties. Old laws left upon the statute book are the source of confusion; so that where there is no question as to facts it is often necessary to appeal to the courts for an interpretation of the law. Cities and towns may make claims in good faith upon one another and upon the commonwealth which are allowed or abandoned only after a process of litigation. Add to this the consideration that the facts themselves are often difficult to ascertain with any degree of certainty, and one finds a sufficient cause for the slight friction which exists between state officials and the town and city officials.[1]

ADMINISTRATION IN CITIES AND TOWNS.

From what has been said concerning the work of the state board some idea may be got of the general poor-relief policy of the commonwealth; the methods of administering relief in the cities and towns varies considably.

Each city or town has its own board of overseers of the poor, which may vary in number from two to nine. In cities the boards are usually chosen by the common council, but they are, in at least one case, appointed by the mayor; usually each ward in the city has a representative on the board. In towns the boards are chosen

[1] The common interests of the local administrators have led to the formation of an association which bids fair to bring about more harmonious and uniform methods of work. This is an association of executive officers of local boards of overseers of the poor, which meets once a month in Boston. It takes up perplexing questions which arise from time to time in connection with poor-relief, listens to addresses by specialists and discusses remedies. The association champions the cause of the local administrators, as the state board does of the commonwealth; such a mutual setting-forth of the interests of the towns and cities and of the commonwealth cannot fail to lead to more harmonious administration of the laws.

in regular town meetings, and in small places the selectmen often act as overseers of the poor.

Until the appointment of the state board in 1863, the administration of local relief was largely without any general supervision or control other than that resulting from legislative enactments. These enactments have not aimed at uniformity of administration throughout the state, but have dealt with each case as it has come up. The legislature has passed one or more acts organizing boards of overseers in each city in the commonwealth, yet hardly any two of the boards thus created are duplicates—they vary with the size, character, tradition, and resources of the place concerned. These special enactments of the legislature creating boards of overseers and establishing systems of local administration are never, I believe, compulsory, but are passed subject to the approval of the common council of the city concerned; the acts, too, are commonly drawn in accordance with the wishes of local administrators or delegates.

The usual board of overseers in a small town consists of three members, elected each for a term of three years, one retiring annually. In such towns very little depends upon the system and a great deal upon the character of the administrators. The floating population is small and every one aided is known personally to the relief officers.

What is true of towns is true also, in some degree, of cities; more depends upon the nature of the administrators than upon the wisdom of the legislators. It has been shown repeatedly that certain of our cities have become so corrupt politically that they cannot conduct a system of out-door relief, because relief granted in this form is only a disguised corruption fund. Mr. Seth

Low, speaking before the eighth annual conference of of charities, 1881, said of out-door relief, "I go so far, in my own mind, as to think that, whenever society has agents enough to organize relief, it can give through private sources, all the out-door relief needed." Mr. Low believes that in a large city out-door relief tends inevitably to become a source of political corruption, that it goes almost entirely to those who could get on without it, and that private benevolence is equal to the wants of the worthy poor.

Certainly so long as out-door relief remains in the hands of "saloon keepers and ward politicians" who give their "favors according to their interests," to use the words which a delegate to a national conference of charities once applied to the out-door relief officers of his own city in the West, such relief is vicious. The discontinuance of such relief does not, however, mean the discontinuance of out-door relief of the poor, but merely the discontinuance of political abuses. In a city which cannot find honest officials out-door relief is out of the question; the question still remains open, however, as to the advisability of such relief well administered, granting, for the sake of argument, that men may be found who will dole out the city's funds with ordinary business honesty. The administration of out-door relief requires an unusual amount of tact and care, since it is easily overdone. The abuses to which such relief is susceptible are illustrated by the experience of England previous to the reforms of 1834, when, in the words of Lord Lifford, "a woman with half a dozen illegitimate children was looked on as a kind of heiress, and sought in marriage accordingly." The question is not, however, whether all forms of out-door relief are good or bad, but whether there are not special cases in

which such relief is advisable. A city may refuse to grant aid to one person for any considerable length of time outside the almshouse, and still grant temporary out-door relief; in summer it may refuse altogether to grant out-door relief. While there is no unanimity of feeling among relief officers of the commonwealth, the preponderating opinion seems at present to be that out-door relief is not necessarily pernicious. Overseers of the poor are inclined to keep applicants out of the almshouse as long as possible. "Once settled in an almshouse," writes one overseer, "a person is likely to remain permanently, never again rising to the dignity of self-support. Bridge over a season of misfortune, by temporary aid, and the recipient is not heard from again for years, perhaps never."

Several large cities in the commonwealth have no almshouses at all, but board such paupers as cannot be assisted at their homes, in the almshouses of neighboring towns.

Out-door relief in towns and cities is usually distributed by means of orders, signed by the secretary of the board of overseers, drawn upon local dealers, for food, fuel and clothing. In some places, as in Gloucester, coal, wood and groceries are bought wholesale and taken to the town farm, whence they are distributed by the farm team on orders of the secretary of the overseers. Practice varies in different towns, but in general the town gets its goods at wholesale. The city of Cambridge reduced its out-door poor-relief in one year from $80,000 to $35,000; and while this reduction may have been partly the result of careful economical management in general, it was due in no small degree to the simple expedient of delivering all goods to the poor in a covered cart marked conspicuously "Overseers of the

Poor." The experiment was discontinued after a time, as it was thought that the worthy poor suffered rather than apply for aid, while the undeserving and shameless were nothing daunted.

How far an overseer of the poor is justified in taking advantage of the pride of those in his charge, is a matter of personal judgment. Certainly municipalities have a right to protect themselves and industrious citizens against idle and unworthy persons by applying some kind of work-test, which will keep away the undeserving idle, and give the deserving poor an opportunity to preserve their self-respect.[1] Any city which dispenses its charities indiscriminately attracts to its love feasts all the rough-scuff of the vicinity. The establishment of a wood-yard, or of some other means of applying the work-test, usually results in a considerable reduction in the amount of out-relief called for.[2]

Here it may be well to call attention to the distinction between the out-relief granted by the towns and out-relief of the commonwealth. The out-relief of the state does not necessarily exclude relief within an institution, that is, within a town almshouse or hospital. Any relief granted outside state institutions is in the eyes of the state board out-relief. The justification for grant-

[1] In this connection, however, an interesting discussion has arisen as to whether those given employment at regular wages on a city farm, or in a city quarry, are thereby pauperized. It has been decided that where the employment is given by the overseers of the poor to one applying for work, it is a form of public relief and the person receiving it a pauper.

[2] In a tramp's memorandum was found the following entry: "Avoid Lowell. Poor accommodations."

ing such relief, as already pointed out, rests upon other grounds than those urged in behalf of out-relief proper.[1]

[1] I have not undertaken in this paper any examination of the policy followed by the commonwealth in granting aid to its soldiers and sailors and to their families, nor any account of the military settlement laws. It has been suggested that the commonwealth is creating a class of dependents by its liberality to soldiers and sailors and their relatives. The subject requires more extended treatment than can be given it here, and it is, moreover, one which may well be treated by itself.

NEW YORK POOR-LAWS.

UNDER DUTCH RULE.

Those who are familiar with our colonial history know that the first settlements along the Hudson river were made by the Dutch, and that the English gained supremacy only during the latter half of the seventeenth century. Among the early orders of the director and council of New Netherlands, one finds an occasional reference to the poor, but usually such reference only as gives evidence that the poor were already with the founders of the colony. Persons circulating at too high a value poor unpolished wampum were fined "10 guilders for the use of the poor."[1] Ten years later, in 1651, it is ordered as follows:

> In order not to subject the Poor to inconvenience, the Director and Council will, as occasion may require, give permission to some particular Inhabitants who request it, to lay in small Beer free of Excise with liberty to retail the same at a small advance by the small measure.[2]

In 1655 the director and council ordered that all goats found at large "this side of Fresh Water" be "seized and forfeited for the behoof and profit of the poor."[3] In the same year one-third of the fines for firing guns on New Year's day and for planting May poles, or beating drums, or selling wine, brandy, or beer, was appropriated to the use of the poor.[4]

[1] New York Colonial Manuscripts, iv, 90.
[2] *Ibid.*, xvi, 23.
[3] *Ibid.*, vi, 146.
[4] *Ibid.*, vi, 207, and xvi, 62.

Again it is ordered as follows:

Goods and merchandise which are brought to, or are received at the weighinghouse, and belong to the honorable Company, to this city, to the Board of Deacons, and other charitable bodies . . . . . shall be exempt from the fee for weighing; all which the weighmaster shall be obliged to weigh gratis and for God's sake.[1]

And with regard to the learned professions as follows:

All Secretaries, Notaries, and Clerks shall be bound to serve the Poor and Indigent who ask such as an Alms, gratis and *pro Deo*; and may demand and Receive from the Rich, the following Fees[2] . . . .

An appropriation of the fine and forfeitures exacted from the lawless and especially from sabbath-breakers to the benefit of the poor seems to have been unconsciously adopted as a first principle in public poor relief. The first order dealing directly with the administration of such relief bears the date of October 22, 1661, and is entitled "Of the Director General and the Council of New Netherland making provision for the Poor."[3] As usual the preamble is especially interesting, but I shall quote the order at length, since it is one of the few important measures passed during this period.

Whereas the Deacons of this City have informed us of the many applications and great trouble which they daily experience from persons residing in outlaying Villages, with whose characters and wants they are utterly unacquainted, so that their Treasury is thereby greatly diminished, and they would, by that means, be unable to assist the Poor and Needy of this City, requesting that seasonable provision be made therein; We, therefore, in order to prevent the future recurrence thereof, have resolved and decided, to the end that the Lazy and Vagabond may as much as possible be rebuked, and the really Poor the more assisted, and cared for, that from this time forward, no assistance shall be given by the Deacons of this City, to any persons residing outside the jurisdiction of this City, unless they bring with them from the Deacons, or Overseers of the Poor at the place of their residence, a certificate of their character and poverty in manner as follows:

'N. N. residing under the jurisdiction of N. N. hath applied

[1] New York Colonial Manuscripts, v, 319.
[2] *Ibid.*, viii, 681; xvi, 130.
[3] *Ibid.*, ix. 863.

to us for some assistance and support, and, as his character and poverty are well known to us, we would willingly have provided him therewith, but the low estate of our Treasury hath not allowed us to do so. We have, therefore, to request, in his behalf, the Deacons of the City of *Amsterdam* in *New Netherland* to lend him a helping hand according to their usual discretion. Done, etc.'

And the persons who shall bring with them such certificates shall be provided for, and assisted here as circumstances permit.

The order goes on to provide for a system of voluntary contributions similar to the contributions collected under the English poor-law prior to the act of Elizabeth. In every settlement and village in the colony collections for the poor were to be made every Sunday. Where there were no ministers the magistrates were to appoint two persons "who," to quote from the order, "shall go around every Sunday with a little bag among the congregation and collect the Alms for the support of the Poor of that place, and then if they fall short, they shall address themselves in the manner as above set forth to the Deacons of this City." The colonists were passing through the period of transition which had been going on in England during the whole of the sixteenth century. The state was coming to the aid of the church.

English influence extended itself over New Netherlands slowly. The first settlers had been sent out by the Dutch West India Company which had received from the home government in Holland almost absolute power. Early in the decade 1660–1670, as a result of a treaty between England and Holland, England gained political control in the colony.[1] In 1664 the Duke of York re-

[1] "The States General of the United Netherlands incorporated, in the year 1621, a company, called the West India Company, to which it granted, among other powers, the right to establish Colonies in such parts of America as were not already occupied by other European nations, This company consisted originally of five branches or Chambers, the principal of which was located in Amsterdam. In virtue of their Charter the West India Company planted a Colony

ceived a generous grant of "All that part of the maine Land of New England beginning at a certain place called or known by the name of St Croix next adjoining to New Scotland in America and from thence extending along the Sea Coast unto a certain place called Petuaquine or Pemaquid and so up the River thereof to the furthest head of ye same as it tendeth."[1] New York, thus made up out of the territory of several of the present New England states, became a portion of the Duke of York's domain, and an English colony.

I shall pass over the two intervening decades during which the English were establishing themselves more securely in the colony, to an act of the year 1691. One who had followed the course of legislation in New York state down to the present day who should be asked to state in a few words the essential features of the poor-law as it stands to-day, could hardly do better than select certain sections of this act of 1691,[2] which deals with the two all-important questions of settlement and immigration. With regard to settlement it is enacted that any person coming into the province without a visible estate or "manual Craft or Occupation" must,

in the Country lying between the Connecticut river and the present State of Maryland, which territory was named, after the parent STATE, NEW NETHERLAND. The exclusive superintendence of this country was immediately transferred to the Amsterdam Chamber, which exercised supreme government over it until the latter part of the year 1664. It then passed into the possession of the English, by whom it was governed until 1673, when the Province was again recovered by the Dutch, and the government was administered in the name of the States General and the Prince of Orange until the 31st October, 1674. The country was finally surrendered to the English, in accordance with the provisions of the sixth article of the Treaty of Westminster." "Laws and Ordinances of New Netherland, 1638–1674," compiled and translated by E. B. O'Callaghan, p. iii.

[1] Documents Relating to the Colonial History of New York, vol. 2, 295.

[2] Laws of New York, chapter vi, 1691.

before he can be admitted an inhabitant, "give a sufficient Surity that he shall not be a Burden or Charge to the respective Place he shall come to inhabit; which Security shall continue for two years." It is provided that those who have a manual craft or occupation may come to inhabit any place, but they must within eight days of their arrival in any city, town or county make application to the persons governing the same to be admitted an inhabitant. It is further provided that, "If any Vagabonds, Beggars, or others, remove from one Town to another, and cannot give Security, as aforesaid, it shall be lawful for the Constable to return such Persons to the Town from whence they came." Here again plainly is an adaptation of the contemporary English poor-law under which a person applying for relief was passed back from parish to parish to the place of his settlement. In New York law the county took the place of the English parish, as the town did in the New England states.

Two sections of the act under consideration which deal with immigration I quote below at length:

> **All Vessels that shall bring any Passengers into this Province, the Masters of such Vessels shall, within Four and Twenty Hours after Arrival, bring a List of all such Passengers he brings into this Province, with their Quality and Conditions, unto the chief Magistrates of each respective City, Town, or County, as aforesaid, under the Penalty of *Ten Pounds*, current Money of this Province . . . .**
>
> **Always Provided, that if any Vessel bring any Person, as aforesaid, not able to give Surety for their Well-Demeanour; that then, and in such Case, that the Master of such Vessel or Vessels shall be obliged to transport all such to the Place from whence they came, or at least out of this Province and Dependencies.**

I have mentioned the similarity existing between the counties and the English parishes regarded as relief districts. It may be well in this connection to note the

county organization as defined in an act of 1691, supplemented by an act of 1703.[1]

Under these acts freeholders and inhabitants in each town elected annually two assessors, one collector, and one supervisor. The supervisors of each county met at the county town, apportioned the county taxes and inspected the treasurer's accounts. Along with other taxes the supervisors levied and collected the poor-rates, which were paid in to the county treasury and afterward paid out to the local boards of overseers of the poor. This round-about and expensive way of collecting and distributing the poor-fund was so amended later that the money for poor-relief was paid over by the assessors directly to the overseers.

It is clear from the internal evidence that these early orders were modelled upon the English poor-laws of the time. This similarity may have resulted in a large degree from the unconscious expression of principles adopted as a matter of course and become a second nature to Englishmen as Englishmen; but in some cases at least the adoption was consciously made, as is shown in the following order of 1701:

> Whereas it is the Custom and Practice of his Majesty's Realm of *England*, and all our adjacent Colonies in *America*, that every respective Town and Parish, doth take Care and provide for the Poor who do inhabit in their respective Precincts, as aforesaid; [it is enacted] that for the Time to come, the Justices aforesaid, at their respective General Sessions, do, once in the Year make Provision for the Maintenance and Support of their Poor respectively.[2]

The cities of Albany and New York, since these cities "by their several Charters, differed in the Ways and Means for the defraying their publick Charge, and maintaining their Poor, from the several Counties with-

[1] Laws of New York, chapter cxxxiii, 1703.
[2] *Ibid.*, chapter xcvi, section vi, 1701.

in the Province," were excepted from this general provision and were left "to follow their former method" of providing for their poor, through their common councils.

COLONIAL PERIOD.

One does not find much general relief legislation during the colonial period. The counties and manors and larger towns seem to have been left to their own devices. The state did not deal directly with any class of dependents but stood to the counties in much the same relation that the federal government bears to the states to-day. Legislation dealt chiefly with individual counties and almost no general laws were enacted.[1] The assembly had to deal now with a county, now with a manor, now with a parish, and now with an overgrown town. County organization could not be applied to every case indifferently, and yet the acts all were drawn after one general scheme—relief being administered through a board of county commissioners. An idea of this gen-

[1] The character of the legislation may be judged from a few titles of acts.

"An Act for the Relief of the Poor in the County of Suffolk." (1747.)

"An Act for the Relief of the Poor in Dutchess County, to enable the inhabitants of the several precincts thereof to elect Overseers of the Poor, and to Ascertain the Places of their Respective Meetings." (1754.)

"An Act for the Relief of the Poor on the Manor of Cortland in the County of Westchester." (1763.)

"An Act for the Relief of the Poor in the Counties of Ulster and Orange, and to enable the Freeholders and Inhabitants of the several towns and Precincts thereof, to elect Overseers of the Poor at their annual Meetings." (1768.) (Extended to Albany, 1773.)

"An Act to enable the Justices, Church Warders, and Vestry of the Parish of Westchester, in the County of Westchester, to raise a sum not exceeding Five Hundred Pounds, for the Purposes therein mentioned." (1772.)

No absolute uniformity characterized these acts: each was adapted to the conditions of the region to which it applied.

eral character may be gained from a detailed examination of one of the later and fuller acts, as for example the act of 1768 dealing with the counties of Ulster and Orange.[1]

"Whereas," reads the preamble, "the Poor of the said Counties of Ulster and Orange are of late much more numerous than formerly, and will become very burthensome, unless a suitable Provision be made to prevent Idleness, and relieve only such as are really indigent and helpless;" therefore the inhabitants of every town or precinct are to elect overseers at annual meetings, and a clerk to continue in office till another be chosen in his stead. At the same annual meetings the inhabitants are "impowered to make prudential Rules and Orders for the Sustenance of the Poor, binding out as Apprentices the Children of such Parents as are unable to maintain them, and for compelling such Persons to work, as have no visible way of gaining an honest Livlihood; and at the same meetings, agree on such Sum or Sums of money, as they think proper for the Purposes aforesaid in the Course of the ensuing Year, and for an allowance to the Clerks."[2] All these proceedings are to be recorded by the clerk, and a copy of the record given to the clerk of the county. A copy, signed by the clerk and the overseer of the poor, of the entry of the sum or sums voted to be appropriated to the relief of the poor, is to be delivered to the supervisors of the county, who shall levy such sum or sums upon the inhabitants and freeholders of the respective towns or precincts "as Part of the necessary and contingent Charge of the Counties respectively, and when levied be be paid to the Overseers of the Poor of the respective

[1] Laws of New York, 1691–1773, chapter mccclxxv, 1768.
[2] *Ibid.*, section ii.

towns and Precincts, by the County Treasurers." Finally the overseers, "at the next Court of General Sessions after the Determination of their respective offices," shall lay before the justices "a particular, full, just, and true Account of all monies they have received and expended." Deficiencies were to be made up at the next assessment. A person elected an overseer of the poor must serve or pay a fine of five pounds; but after serving one term could not be called upon again for four years.

With slight variations such was the local organization for the administration of poor-relief in the several counties of the state.

One of the few general acts was an act of March 8, 1773, for the settlement and relief of the poor.[1] The preamble declares that "the laws of this County relating to the Settlement and Support of the Poor are very deficient and ineffectual for that Purpose." It is, therefore, enacted by the governor, council, and general assembly that two justices of the peace, of whom one is a quorum, may by their warrant "receive and convey" persons, on "complaint made by the Church Wardens or Overseers of the Poor of any Parish, Town, Precinct, or District within this Colony, to the Justice of the Peace within forty Days after such Person or Persons shall come to settle . . . in any tenement under the yearly Value of *Five Pounds*." The persons so complained of might appeal to quarter sessions at the next general or quarter sessions of the peace. The forty days required for settlement were reckoned from the date of an entry or record of a notice in writing given by the new-comer to one of the church wardens or an overseer of the poor. The notice must state the place

[1] *Ibid.*, chapter mdc., 1773.

of abode and the number in the family of the stranger, and the warden or overseer receiving it was required, on penalty of forty shillings or twenty days' imprisonment, to register it within forty-eight hours after receipt thereof "in a Book kept for the Poors Accounts." Moreover wardens and overseers of the poor were instructed, under penalty of ten pounds fine, to receive persons removed "by warrant under the Hands and Seals of two Justices of the Peace." "Soldiers, seamen, and workmen in his Majesty's service" could not gain a settlement till after dismissal from service. In addition to the above condition of settlement of forty days' residence, it was provided in the same act that (1) any person who should execute any public annual office or charge during one year, or (2) any person who should be "charged with, and pay his Share towards the public Taxes or Services, for the Space of two Years," or (3) any unmarried person, without children, who should "continue and abide in the same Service during the Space of one whole Year," or (4) any apprentices through their "bonding and inhabitation," should acquire settlement though no notice should have been given. Finally the purchaser of an "Estate or Interest," in "any Parish or Place," of less than thirty pounds, gained a settlement only so long as he inhabited his estate, and on leaving it might be removed to former place of settlement. Any person or place aggrieved at the decision of the justice of the peace in cases of removal might appeal to the next quarter or general session of the court.

Another provision[1] of this act reminds one of the English relief act under Charles II, 1662. It was enacted that any person who should bring a certificate, properly

[1] *Ibid.*, sec. x.

attested and sworn before justices, from the church-wardens or overseers, acknowledging him an inhabitant, must be received in any other town. When the bearer of such certificate became chargeable he might be sent back to the town granting the certificate. The certificate was to be received as evidence of settlement in all courts without further proof; but the person presenting it could gain a new settlement only by renting a tenement of £5 yearly value, or by holding some annual office in the parish or place.

Where there were relations in the degrees of fathers or grandfathers, mothers or grandmothers, children or grandchildren, of sufficient means, they were to furnish relief as the justices in the general or quarter sessions should order, on penalty of ten shlilings per person for each week of neglect.

An act of no direct importance, passed April 3, 1775[1], points to the inconvenience experienced in some of the counties owing to the round-about way in which money collected for the use of the poor came into the hands of the overseers, being first paid into the county treasury by the collectors and then paid out again to the overseers. In Ulster and Dutchess counties this proved troublesome for the towns, manors, and precincts remote from the residence of the treasurer, and it was accordingly provided that collectors should pay over the money directly to the overseers.

An act of January 31, 1775,[2] provides "for altering the time of assessing and collecting the Taxes for the Support of the Minister, and the Poor in the City of New York." The preamble declares that the assessment of taxes in the winter "has caused inconvenience

[1] Laws of New York, chapter 63, 1775.
[2] *Ibid.*, chapter 5, 1775.

to the Assessors from the coldness of the Weather," and that it is "also inconvenient to the inhabitants in general to pay their Taxes at that Time when there is but little circulation of Money and their Family expences higher than at any other Season of the Year." Accordingly it is provided that in 1776, "and in every year forever thereafter," the taxes for the support of the minister and the poor shall be levied on the first Tuesday in May or within ten days thereafter; and shall be collected and paid to the church-wardens of the said city by the constables, to whom the tax rolls shall be delivered on or before the first day of August next following in every year.

The tendency to emphasize the county or territorial organization in place of the town organization became apparent in early colonial days, when the territory along the Hudson was portioned out among great trading companies and private owners. The county organization has not supplanted the town organization, but has assumed many functions pertaining to the town in the New England states. Until recently the state recognized no class of state paupers. The state has dealt not with paupers but with towns, cities, and counties. The great bulk of legislation has been legislation prescribing methods of relief for specific counties. These acts are too numerous to be considered in great detail; and if it were possible, it would be unprofitable so to consider them, since in their main features they do not essentially differ from one another. They, however, record the gradual determination of the duties of the county, as the intermediary between the state and the towns.

An act of 1780[1] "for defraying the contingent charges and maintaining the poor in the counties of Ulster,

[1] Laws of New York, chapter 68, 1780.

Orange, Westchester, Tryon, and Charlotte," gives evidence of a maturing consciousness of county responsibility. The act provides that the overseers of the poor in the "several towns, manors, districts, and precincts" within these counties shall make returns each year of the number of poor persons in their respective towns, manors, districts and precincts, to the annual meeting of the county supervisors. The supervisors shall determine the sum to be raised by each town, manor, district and precinct "for the support of the said poor and also the sum for defraying such contingent charges and expenses as their respective supervisors shall adjudge and determine the county to be justly chargeable with." The tax is to be apportioned by the supervisors in each place in accordance with the last tax roll, so that the amount paid by any one person shall bear the same relation to his total assessment as the poor-tax does to the whole tax. The supervisors are to issue warrants to the collectors in which is specified the sum to be paid to overseers of the poor, and the sum to be paid into the county treasury for contingent expenses, "the poundage of one shilling in the pound to be by the respective collectors retained in their hands for collecting the said tax," and of sixpence in the pound to be retained by the treasurers. Where overseers of the poor have not heretofore been elected, there are to be elected by a "plurality of voices" not less than two nor more than three.[1] With regard to auditing of accounts it is provided that overseers of the poor shall ten days before the annual meeting of the supervisors "render a just and true account, to two neighboring justices of the peace in the respective counties, of the monies by them received and

[1] Laws of New York, revised 1813, vol. ii, chapter 35, authorizes each town to elect two overseers of the poor, for terms of one year.

expended from whom and to whom, which said accounts the said justices shall audit, and if there shall be a surplus in the hands of the said overseers or either of them, it shall be paid to their successors." It is provided finally that nothing in this act shall extend to the manor of Cortlandt in the county of Westchester.

1784–1824.

We have followed the course of poor-relief legislation in the colony of New York down to the opening of the War of Independence and the separation from the mother country. Soon after the close of the war the main features of the old colonial legislation on settlement and relief of the poor were re-enacted, with some modifications of the general administrative system characteristic of the new order of things. Conditions of residence, of notification, and of certificates of settlement were not changed. The act of 1784[1] further directs that in those parishes composed of several towns, boroughs, manors or precincts the poor be portioned out among the respective localities in an equitable manner. The offices of church-wardens and vestrymen in the city of New York, and in Queens, Richmond and Westchester counties, are abolished, and the duty of relieving and settling the poor is made a public function. It is provided that there shall be elected in the county and city of New York two overseers of the poor for each ward, "who with the mayor, recorder, and aldermen of the said city and county, shall exercise all the powers and authorities, heretofore appertaining to the office of vestrymen of the said city, with respect to the overseeing, relieving or settling the poor and binding out or placing of apprentices." The overseers are to be elected in the

[1] Laws of New York, chapter 35, 1784.

same manner that the vestrymen have been elected heretofore, *i. e.*, in the district meetings of the inhabitants and freeholders of the several counties. The inhabitants and freeholders were authorized "to make prudential rules for the sustenance of the poor, for binding out as apprentices the children of such parents as are unable to maintain them, and for compelling such persons to work, as have not any visible means of gaining an honest livelihood; and at the same meetings to determine and agree upon such sum and sums of money as they may think proper for the purposes aforesaid in the ensuing year." The clerk made a record of the sums agreed upon and delivered a copy of the same to the supervisor who laid it before the board of supervisors for the county. The sums assessed and collected were paid by the collectors to the overseers directly. The overseers gave to the collectors receipts for sums received, and these receipts relieved the collectors of all liability. Within fifteen days after the expiration of their office overseers of the poor must lay before the justices of the peace an account of all monies received and expended during the term.

The last section of the act throws a light upon the curious development of the county system in New York; it declared that in all cases where the term district is used in the act it is equivalent to the term "city, township, town, borough, manor, parish, precinct, and district respectively." The usual meaning attached to the term "district" was then, as it is to-day, a division of the county, and the tendency to treat cities, towns, townships, boroughs, manors, parishes and precincts as districts is an evidence of the strengthening of the county system of local administration.

The act of 1784 introduced no radical changes into

the laws for the settlement and relief of the poor. It formally did away with the administration of relief through church officers in the more important counties where it was so administered, but in doing so it only recognized a public sentiment which had already placed the administration of relief largely in the hands of civil officers elected in the various local relief centers. The act of 1784 was rather a compilation and a formal sanctioning by a new political organization of existing rules, and an adjustment of them to the new political conditions, than the outgrowth of any change or development in public sentiment or any serious consideration of the problems of poor-relief. It was consequently short-lived. In 1788 it was supplanted by a more spontaneous reaction of public opinion upon existing conditions and relief problems.[1]

As stated in the preamble of the new act, the laws of the state "for the settlement and relief of the poor and for the removal of disorderly persons, had by experience been found insufficient." It was therefore enacted "by the People of the State of New York, represented in Senate and Assembly . . . That every city and town shall support and maintain their own poor." The act then proceeds to determine who are the poor of any particular place. It declares (1) that any person who has come to inhabit any city or town and has "rented and occupied a tenement of the yearly value of twelve pounds[2] or upwards for two years and actually paid such rent," or (2) any person who has held an annual office one year, or (3) who has been charged with and paid his or her share of the city or town taxes for two years, or (4) who has been bound apprentice for two years, is

[1] Laws of New York, chapter 62, 1788.

[2] Afterward, by chapter 184, 1801, changed to £30.

"deemed and adjudged to have obtained a legal settlement in such city or town." So much for those who have already acquired a settlement in the past. The same sentence in regard to the acquirement of settlement, provides that "all mariners coming into this state and having no settlement in this state, or in any other of the United States of America; and any other healthy able-bodied person coming directly from some foreign port or place into this state, shall be deemed and adjudged to be legally settled in the city or town in which he or she shall have first resided for the space of one year." The first four provisions declare who are to be deemed already to have acquired settlement; the last provision describes the condition of acquiring settlement in the future, *i. e.*, twelve months' residence.

Bastards were by this act settled in the place of last legal settlement of the mother. The occupation of an estate of less than £30[1] value gave a settlement only so long as it was occupied by the owner, who might on leaving his estate be removed to the place of his last settlement.

New comers who within forty days after their coming into any city or town gave a written notice of their place of residence and number in family to any two overseers of the poor, acquired a settlement if not removed within twelve months from the registering of such notice. The penalty for neglecting to register the notice was 40*s.*[2] If any overseer thought any stranger likely to become chargeable to the town, such overseer must apply to two justices of the peace:

> And said justices being so or otherwise informed, or seeing such stranger and suspecting him or her to be of insufficient abilities

[1] Changed to $75 by chapter 184, Laws of 1801.
[2] Changed to $5 by chapter 184, Laws of 1801.

or likely to become a charge to such city or town, are hereby authorized and required to issue their warrant to a constable of such city or town, thereby commanding him to bring such stranger before them . . . . and the said justices shall examine every stranger so brought before them and any other person or persons, whom they may think necessary, upon oath, relating to the abilities and last place of legal settlement of such stranger; and if, upon such examination, the said justices shall find such stranger likely to become a charge to such city or town, they shall order and direct such stranger, by a certain day by them to be preferred, to remove to the place of his, or her or their former settlement, and on neglect to comply with the said order, the said justices shall issue a warrant, under their hands and seals, directed to any constable of such city or town . . . . thereby commanding him to convey or transport such stranger to the constable of the next city or town, through which such stranger shall have been suffered to wander and stroll unapprehended, and so on from constable to constable, or in such other manner, by the warrant and most convenient route, as the said justices shall think fit to direct, to the place of legal settlement of such stranger, if the same shall be within the State.

In case the person had no settlement within the state, or if the justices could not discover the place of settlement, they were to issue a warrant to the constable who should remove the stranger to the house of the constable in the town whence the stranger last came, and the constable of this place must receive the person so brought under a warrant, and pass on to the next constable. So the stranger passed from constable to constable till he came to the place of his last settlement or to some town outside the state. It was further provided, as a guarantee against the introduction and settlement of poor strangers, that any inhabitant of any city or town who should entertain a stranger, not having a settlement within the state, for the space of fifteen days, without giving notice to one of the overseers of the poor of "name, quality, condition and circumstances of the person," should forfeit 40*s.*[1] for each offence—the fine to be recovered by any person who should sue, one-half

[1] Changed to $5 by chapter 78, Laws of 1813.

going to the prosecutor, and one-half to the overseers of the poor. And if the stranger had been so entertained over forty days, any two justices of the peace might cause the inhabitant rendering such entertainment "for a longer space than fifteen days, without giving information thereof," to be brought before them "to enter into a bond to the overseers of the poor . . . . in the sum of one hundred pounds,[1] conditioned that such stranger should not become a charge to such city or town." Those of inability to enter into such a bond might be cast into jail; or if the justices thought advisable they might order the stranger to be passed on from constable to constable to place of settlement or out of the state. The expenses of transportation were to be borne by the respective cities or counties, and the constable to be allowed for his services so much "as the supervisors of the city or county should judge he reasonably deserved to have." A person so removed who returned might in the discretion of the judges be whipped, —if a man, not exceeding thirty-nine, if a woman not exceeding twenty-five lashes.

In brief, strangers coming into any town or city, who within forty days gave notice to the overseers of the poor, and who were not removed within one year, acquired settlement; the implication being that those who gave no notice could not acquire settlement through any length of residence. Further, inhabitants entertaining strangers were to give notice of such entertainment within fifteen days, or enter into a bond to secure the public against any charges which might thereafter be incurred for support of the stranger.[2]

[1] Changed to $250 by chapter 78, Laws of 1813.

[2] By chapter 220, Laws of 1821, any two justices were authorized to summon unsettled strangers before them, and if they appeared liable to become chargeable, might order them to return to the place of

The provisions for filing with the town clerk certificates of settlement by new comers remained practically unaltered. A person filing such a certificate could gain a settlement in the new town (1) by the purchase of a £30[1] freehold, (2) by the occupation of a £12[2] tenement for two years, (3) by holding a public office one year. In the case of persons who brought no such certificate, who became chargeable and owing to any infirmity could not be removed, the overseers of the poor in the place of settlement were to be notified of such infirmity, and were thereupon to undertake the support of such person.[3]

The provisions regarding the liability of relatives and the provision for levying and collecting the sums for poor-relief remain unaltered.[4]

The granting of relief by overseers of the poor was

their former settlement. In case of a refusal the justices might order the constable to convey the stranger to the place of settlement if that were within the county, or if not, to the town nearest of the next county through which the stranger had been permitted to wander, and so on to the place of settlement if within the state; or if the pauper came in through New York city and had acquired no settlement, back to that city.

[1] Changed to $75 by chapter 184, Laws of 1801.

[2] Changed to $30 by chapter 184, Laws of 1801.

[3] Chapter 31, Laws of 1788, declares that "all persons who shall unlawfully return to the city or town from which they shall respectively have been legally removed by order of two justices of the peace, without bringing a certificate from the city or town whereto they respectively belong," shall be "deemed and adjudged disorderly persons" and shall be committed to the house of correction, until they can be placed out as "servants, apprentices, mariners, or otherwise."

[4] Chapter 184, Laws of 1801, made the penalty for neglect on the part of a relative ordered to support, $1.25 for each week of neglect. Chapter 117, Laws of 1821, made the relatives liable for the support of such persons as the justices should direct on pain of forfeiting not less than $1.25 nor more than $3.50 a week so long as the person remained chargeable. Chapter 75, Laws of 1816, provides that a grandfather or grandmother ordered to relieve his or her grandchild may bind out the child to be an apprentice or servant, even though the father and mother be alive.

carefully guarded. Relief could be given only under the sanction of a justice of the peace. When any person applied for relief to any overseer, the overseer applied to the justice.

> If it shall appear to the said justice and overseer or overseers of the poor that such person is in such indigent circumstances as to require relief, the said justice shall give an order in writing to the said overseer or overseers of the poor to make an allowance weekly or otherwise, to every such person, as they in their discretion shall think his or her necessities shall require; and the said overseer or overseers of the poor shall make no other or further allowance to such poor person than what by the said order shall be directed; which said order shall be a sufficient voucher for the payment of so much money by the said overseer or overseers of the poor, and shall be allowed in adjusting his or her account.

The overseers in every city and town were to procure "a book of good paper and well bound" where the names of all poor persons ordered to be relieved were to be entered and the amount of relief ordered. These books were to be examined and audited by the town clerks, supervisors and justices, who were to report upon them in the general meeting of the freeholders of the town.

The act authorized the erection or purchase of workhouses under the supervision of overseers of the poor in the several cities and towns. Small towns might unite for the erection or purchase of such a house. The names of persons who refused to be lodged, kept at work, and maintained in such house or houses, "were to be put out of the book," in which the names of the poor were registered.

Finally, with regard to immigration it is enacted that masters of vessels entering New York city should within twenty-four hours report to the mayor, or in his absence, to the recorder of the city, the names and occupations of every person brought in his vessel, on penalty of

£20 for each person not reported.[1] Any householder who entertained a foreigner landed in contravention of this provision, and who did not report the case within twenty-four hours, forfeited £5.[2] A master who landed within the state any person unable to give to the mayor or recorder a good account of himself, or a person likely to become a public charge, must within one month retransport such person to the place whence he came, and enter into a bond for that purpose in the sum of one hundred pounds, "conditioned for the purposes aforesaid, or . . . . conditioned that the person so imported shall be or become a charge to the said city or any other city or town in this State."[3] In case the

[1] Chapter 101, Laws of 1797, made the penalty $50, and in the case of foreigners not reported the penalty was $75.

[2] By chapter 101, Laws of 1797, the penalty was made $10; and by chapter 80, Laws of 1799, $50.

[3] Chapter 101, Laws of 1797, provided that this bond should be given prior to the landing of every passenger liable to become chargeable in the estimation of the mayor, on a penalty of $500 for each person landed for whom security has not been given, "conditioned to indemnify and save harmless the said city of New York from all and every expense and charge which shall or may be incurred for the support and maintenance of any such person so imported."

Chapter 80, Laws of 1799, declared that the mayor, or recorder, might require every master to be bound with two sufficient sureties to the mayor, or recorder, "in such sums as the mayor or recorder may think proper (not exceeding three hundred dollars for each passenger) to indemnify and save harmless the said mayor, aldermen and commonalty and the overseers of the poor of the said city and their successors from all and every expense and charge which shall or may be incurred . . . . in case such person shall at any time within two years thereafter become chargeable to the said city." And if any such person not a citizen of the United States should be permitted to land before such bond was given, the master should forfeit $5,000 for every person permitted to land in the city of New York, or landed within fifty miles of the city of New York with intention to proceed thither in some other way. The mayor, aldermen and commonalty of the city were authorized to compound for these forfeitures either before or after beginning suit for their recovery "on such terms as the circumstances of the defendant or the case might in their judgment require."

master refused to enter into such a bond he should be thrown into the common jail.

With regard to New York city, it is provided that the mayor, aldermen and commonalty shall nominate and appoint twelve freeholders and inhabitants to be overseers of the poor, under the "stile of The commissioners of the Almshouse and bridewell of the City of New York," with the ordinary powers granted to overseers. In 1801[1] the number of commissioners was reduced from twelve to five.[2]

All former acts relating to the relief and settlement of the poor were repealed.

An act passed in 1817, to amend the act for relief and settlement of the poor,[3] while still maintaining the form of the act of 1788, considerably modified the conditions of settlement. It declared that no person from any other state, or from Upper or Lower Canada, who should come to reside in any city or town of New York, should acquire a settlement unless such person purchased real estate in the city or town, to the value of $250, or rented and occupied a tenement of $100 yearly value for four years, or executed some public office in the city or town for three years, or have served as an apprentice or servant "by indenture, or by deed, contract or writing not induted, not less than seven years." Any person who brought any poor person into the state and left such person in any city or town forfeited $25.[4]

As the state of New York recognized no class of *state* paupers, it became necessary to provide for desti-

[1] Laws of New York, 1801, chapter 184.

[2] A similar provision was made with regard to the city of Hudson by chapter 119, Laws of 1820.

[3] *Ibid.*, chapter 177, 1817.

[4] Chapter 245, Laws of 1827, makes the forfeit $50 for bringing poor persons into any city or town.

tute, unsettled persons who applied for relief, in the towns where they happened to be. A law of 1809[1] provided that in such cases the overseer of the poor should apply to a justice of the peace, and if on inquiry it appeared to the justice and the overseer that the applicant was in indigent circumstances and not able to maintain him or herself, and so sick or otherwise debilitated that removal would be improper, the justice gave an order in writing to the overseer to make such allowance weekly as the necessities of the poor person seemed to require. Separate accounts of money expended in this way were to be kept, and charged upon the county, to be "levied, collected and paid as other county charges."[2] This is one of the first general provisions for relief of the unsettled poor, where the applicant could not be removed to place of settlement or out of the state.

The responsibility of the county is shown again in an act of 1820.[3] This act refers specifically to the erection of a House of Industry in the county of Rensselaer, but a two-thirds' vote of the supervisors of any other county to exercise the powers conferred by the act, extended the act to that county. It authorized, directly, the supervisors in Rensselaer to purchase land and erect a house of industry, and to appoint annually not less than five persons to be superintendents[4] of the house of industry. When any poor person applied for relief in

[1] Laws of New York, 1809, chapter 90.

[2] Chapter 177, sec. v, Laws of 1817, provides that the supervisors of the respective counties shall audit accounts for the support of county poor and allow only such advances as seem to them just and necessary—even though the poor-masters of the respective towns may have dispensed more.

[3] Laws of New York, chapter 51, 1820.

[4] *Ibid.*, chapter 45, 1840, grants to the superintendents all the powers conferred upon superintendents of county poor-houses by the act of November 27, 1824, noticed in the pages following.

any town, the judge might, in preference to ordering any other relief, order such person to be removed to the house of industry. The judge might also, with consent of the supervisors, commit disorderly persons to the house of industry for terms not exceeding six months. And overseers of the poor might take up any child under fifteen found begging or soliciting charity and send such child to the house of industry. Persons committed were to labor as they might be able under penalty of solitary confinement on bread and water.[1] The expense of supporting the institution was to be a charge upon the county, and be assessed on towns in proportion to the number and expense of support of the paupers from each town, or in such other way as the supervisors might elect. No town without its own consent was made subject to the act. The superintendents were to provide materials for the inmates to work upon.

In 1824[2] it was enacted that in certain counties—including all counties in the state except thirty-eight—poor-houses should be erected. Supervisors were in each county to purchase a lot of land, not exceeding 200 acres, to be the site of the poor-house. The expense of maintaining the poor-house and its inmates in some counties was a county charge, in others a town charge. In the county of Schenectady, for example, it

[1] Laws of New York, chapter 39, 1821, authorizes the supervisors of Madison county to contract the poor chargeable upon the county out to one or more places. Where this is done it is provided that at least once a month the supervisors shall examine into the condition of the poor so boarded out and see that they are provided with the "necessary meat, drink, washing, lodging, and attendance, in sickness and in health." Persons contracting to keep such poor are to be bound in a bond of double the amount which they are to receive for the keeping. It is provided also that the supervisors may rent a tenement and appoint a superintendent for the accommodation of the poor.

[2] *Ibid.*, chapter 331, 1824.

was compulsory on each town or place to send its poor to the poor-house, where each place bore the expense of supporting its own inmates, but the expense of "establishing, keeping, maintaining and governing said county poor-house, as also the expense of relief of such persons as are denominated county poor, shall be a charge upon said county."[1] In other counties the erection of a county poor-house did away with the distinction between town and county poor, the county assuming all relief charges. Such, for example, was the case in the county of Warren,[2] where the charge was borne by the county without reference to the number or expense of the paupers from different towns.[3] After the erection of the county house, the supervisors[4] were to appoint annually a board of not less than five superintendents who should manage the house, employ a keeper, and contract paupers out.[5] The provisions of committal and concerning children found begging were similar to those of the act above cited for establishing a house of industry in Rensselaer county.[6] A later act made it incumbent on su-

[1] *Ibid.*, chapter 147, 1826.

[2] *Ibid.*, chapter 197, 1827.

[3] See, also, Laws of New York, chapter 155, 1828.

[4] Chapter 292, 1832, put the election of superintendents in the hands of the supervisors, and judges of court of common pleas. This provision was repealed, however, by chapter 130, 1840, and the election left with the supervisors.

[5] Chapter 352, 1829, declares that no supervisor, or county treasurer, shall hold the office of superintendent.

[6] In his notes on the Revised Statutes of New York, 1830, John C. Spencer, Esq., remarked: "What remained of the English system of poor laws is almost entirely abolished. . . . . County superintendents of the poor are to be appointed by the board of supervisors in every county of the state: they are to be a corporation, are to have charge of the county poor, and are to decide all disputes concerning the settlement of poor persons, which decisions are to be final and conclusive." "Notes on the Revised Statutes of the State of New York," Albany, 1830, p. 35.

perintendents to cause all county paupers between the ages of five and sixteen years, in poor-houses, to be taught "as children are now taught in the public schools of this state, at least one-fourth part of the time said paupers shall remain in said poor-houses."[1]

Into the act of 1824 providing for the erection of county poor-houses was introduced an important modification of the provisions regulating the removal of unsettled persons who became chargeable in any county.

The act declared:

> No person shall be removed as a pauper out of city or town, to any other city, town or county, by any order of removal and settlement; but the county where such person shall become sick, infirm and poor, shall support him; and if he be in sufficient health to gain a livelihood, and still become a beggar or vagrant, then he shall be treated as a disorderly person: Provided, that nothing herein contained shall prevent the removal of any pauper from one city or town to any other city or town in the same county.[2]

The penalty for transporting a poor person from one county to another was $100 or six months' imprisonment, or both. An act passed in this same year to amend the act for establishing county poor-houses, declared that any person likely to become chargeable, "clandestinely or fraudulently removed" from one city or town to another, might on complaint of an overseer before two justices of the peace be by warrant removed back.

With regard to temporary relief it is generally provided in acts dealing with single counties that the justices may on investigation order such relief instead of sending the applicant in all cases except sickness to the county poor-house. Where the distinction between town and county poor was abolished, temporary relief might be administered in any town or city at the ex-

[1] Laws of New York, chapter 271, 1831.

[2] *Ibid.*, 1824, chapter 331, sec. 8.

pense of the county until removal to the county house might be effected without danger.[1] In 1827 overseers of the poor in any town were authorized at their discretion, with the consent in writing of a justice of the peace, to grant temporary relief outside the poor-house.[2] The superintendents were by a later act directed to audit all accounts of "overseers of the poor, justices of the peace, and all other persons, for services relating to the support, relief or transportation of county paupers," and were to draw on the county treasurer for such amounts.[3]

In one county, the county of Montgomery, the powers and duties of the overseers of the poor, and of the justices of the peace in relation to the poor, were conferred upon the supervisors of the respective towns. In each town the supervisor was to enter in a book kept for that purpose "the names of all persons who should apply to him for relief; his decision in each case, whether sent to the poor-house, temporarily relieved, or application refused, together with an account of all sums by him expended" etc.[4] This book was open to inspection of all taxpayers.

1824–1873.

We have followed in some detail the development of the county system of administering poor-relief, down to the passing of the act of 1824; it remains to note the assumption by the state of certain duties connected with poor-relief. It has been seen that prior to this date there existed in New York no class of state paupers, a class of paupers recognized in Massachusetts from 1675.

[1] Laws of New York, chapter 197, 1827.
[2] *Ibid.*, chapter 99, 1827.
[3] *Ibid.*, chapter 26, 1832.
[4] *Ibid.*, chapter 266, 1839.

In New York the unsettled poor were a charge upon the counties, and in some counties all the poor settled or unsettled were county charges. Except the appointment of unpaid commissioners in one or two instances for the reception and distribution of charitable donations given for special objects, the first important disbursement of alms by the state was in the form of aid to the families of soldiers, after the War of Independence. In view of the high prices after the war it was enacted[1] that justices of the peace might supply families of persons "belonging to the five Battalions of contingent troops raised under the direction of the State and who have engaged in the same for three years or during the war, with the necessaries of life at moderate prices," as the justices judged sufficient for support; viz., "wheat at seven shillings per bushel, fresh beef at three pence per pound, fresh pork at four pence per pound, and smaller meats in the like proportion of price." The justices were to transmit their accounts to the auditor general, and the state treasurer was authorized to pay the net expense incurred. The expense which might be incurred for each family was limited in March of the year following[2] to £30 for each family. In October[3] commissioners were appointed one in each county to draw up a list of needy soldiers' families, and the number in each. This list was to be forwarded to the state treasurer who was authorized to pay to the commissioners £30 for each member of the respective families. The commissioners of sequestration were also ordered to furnish relief in case of certain persons.[4]

[1] Laws of New York, chapter 45, 1778.
[2] *Ibid.*, chapter 34, 1779.
[3] *Ibid.*, chapter 22, 1779.
[4] *Ibid.*, chapter 5, 1780; chapter 17, 1780; chapter 38, 1781; chapter 32, 1783.

Among the expenditures for the year 1794 is an item $3,500 to be appropriated by the person administering the government "for the support of such of the inhabitants of Saint Domingo resident within this State as shall be found in want of such support;"[1] also an item, a sum not exceeding $50, for the support of a certain John Swaney injured while working on the canal, and a like sum each year of Swaney's life, to be paid out of the state treasury to the supervisors, and by them to the overseers of the poor at Albany. Such exceptional and isolated cases made up the list of the state's charges.

At the beginning of the century the passing away of slavery in New York state furnished another subject for state interference. A master might abandon the child of a slave after supporting it to the age of one year, and if he elected so to do the child became a state charge, to be supported by the local board of overseers on an allowance not to exceed three dollars a month from the state until the child could be bound out at service.[2] In the year following, the allowance was made two dollars a month conditioned that it should cease when the child attained the age of four, unless it appeared that the child was so decrepit or infirm that it could not be bound out.[3] In 1804 the permission to abandon a slave child was revoked; a master might still abandon a slave, if male at the age of twenty-one, if female at the age of eighteen, provided the slaves were of ability to be self supporting.[4] In 1813 provision was made for persons emancipated by the state, once slaves of masters whose estates had been confiscated. When such persons became chargeable, the state allowed three dollars a month for

[1] Laws of New York, chapter 58, 1794.
[2] *Ibid.*, chapter 188, 1801.
[3] *Ibid.*, chapter 52, 1802.
[4] *Ibid.*, chapter 40, 1804.

their support.[1] An act of March 22, 1816, removed the three-dollar limit to the allowance, the state assuming the whole charge of support whatever that might be.[2]

The state had as yet assumed no very burdensome charges. The class of manumitted slaves gradually disappeared, and the interference of the state here set no binding precedent on the future. Consequently the next exercise of state philanthropy takes an entirely new bent—the extension of school privileges to the deaf and dumb.

Deaf and dumb persons between the ages of ten and twenty-five, to the number of four from each senate district, were to be received at the New York institution for the instruction of such persons. The number of pupils at the expense of the state might at no time exceed thirty-two in number; and the term of instruction for state pupils was three years. Any person who wished to have a deaf and dumb person instructed here must apply to the overseers of the poor, the parent or guardian to pay a portion of the pupil's board if able. The institution received for each pupil $150 a year, the state paying for its pupils the balance of such sum after deducting the amount paid by the parent or guardian.[3] In the following year, in answer to a petition from the inhabitants of the towns of Canajoharie, Cherry Valley, and Sharon, the state appropriated $1,000 to aid in establishing a private school for the deaf and dumb.[4] In 1827 the legislature appropriated $10,000 to be used in building an asylum for the deaf and dumb in the "city of New York, or in the village of Brooklyn, in Kings county: Provided the directors of the institution for the

[1] Laws of New York, chapter 88, 1813.
[2] *Ibid.*, chapter 45, 1816.
[3] *Ibid.*, chapter 233, 1822.
[4] *Ibid.*, chapter 189, 1823.

deaf and dumb in the city of New York should raise the same amount for the same purposes."[1] This school was to be under the supervision of the superintendent of the common schools, who should inspect the institution and suggest improvements to the directors and to the legislature. The directors were authorized to receive not exceeding eight pupils "for a period not exceeding two years beyond the time now allowed by law," to be supported as stated above. In so far as the state undertook the instruction of the deaf and dumb it did so as an extension of the public school system. The state pupils were under the surveillance of the superintendent of public schools. In 1832 overseers of the poor were instructed to render to the superintendent lists of the deaf and dumb in their town, and from this list the superintendent selected his pupils.[2]

Another class of dependents requiring special care gradually demanded the attention of state authorities—the insane and the idiotic. These had been left to the counties and towns to deal with as seemed convenient in each case. Justices had been authorized to issue warrants to have lunatics confined and chained,[3] and the place of confinement must have been often the jail or house of correction. An act of 1827 gives evidence of this[4]; it decrees that "no lunatic or mad person, nor any person disordered in his or her senses, shall be confined in the same room with any person charged with or convicted of any criminal offence." Any overseer of the poor, constable, or keeper of a jail who should permit a lunatic to be so confined, became thereby liable to a fine of $250 and one year's imprisonment. Relatives

[1] Laws of New York, chapter 97, 1827.
[2] *Ibid.*, chapter 223, 1832.
[3] *Ibid.*, chapter 31, 1788.
[4] *Ibid.*, chapter 294, 1827.

might provide for a lunatic or mad person subject to the approval of the overseers of the poor; in case the lunatic were given over to the charge of the overseers, relatives might be held to defray so much of the charges as they might be able to bear. Lunatics might be sent to the asylum in New York city. In 1828[1] the supervisors of the poor in Washington county were authorized to expend $15,000 in the erection of buildings for the idiotic and insane.

In 1838[2] overseers of the poor were more specifically directed to see that no dangerous lunatics went at large. Where such persons were at large the overseers were to apply to two justices of the peace who should issue a warrant "commanding them to cause such lunatic or mad person to be apprehended, and to be safely locked up and confined in such secure place as may be provided by the overseers of the poor . . . . within the city or town of which such overseers may be officers, or within the county in which such city or town may be situated, or in the county poor-house in those counties where such houses are established, or in such public or private asylum as may be approved by any standing order or resolution of the supervisors of the county in which such city or town may be situated, or in the lunatic asylum in the city of New York."

In 1836 the legislature authorized the governor to appoint three commissioners to select a site for a New York state lunatic asylum, and appropriated $10,000 for the purchase of land. It further authorized the governor, together with the secretary of state and the comptroller, at any time after the purchase of the land, to appoint three commissioners to superintend the building

[1] Laws of New York, chapter 84, 1828.
[2] *Ibid.*, chapter 218, 1838.

of the asylum, and appropriated $50,000 for that purpose. In 1839, the legislature appropriated an additional $75,000 to the use of the building commissioners;[1] in 1840 another $75,000;[2] and in 1841 another like sum.[3] In May of 1841, the legislature provided for the appointment by the senate on the nomination of the governor of trustees for the state lunatic asylum. Three of the trustees were to be citizens residing within five miles of the asylum; the trustees were appointed for three years. They were instructed, "by such committee of their number as they should appoint, to visit institutions for the keeping and management of lunatics in this and in other states, and inquire into their government, organization and internal arrangement;" and they were further to report to the legislature at its next session "a system of government, discipline and management of the State Lunatic Asylum, and regulations for the admission of patients, so as to secure its benefit equally to all the counties of this state."[4] Accordingly in the year following the legislature passed an elaborate act for the management of the new institution.[5]

The act authorized the senate on the nomination of the governor to appoint a board of nine managers, from which three members retired annually. A majority of this board must reside within five miles of the institution. This board appointed a superintendent and other resident officers at the asylum, and, subject to certain limitations,[6] fixed the salaries. The managers must inspect the institution; one manager visiting it every

[1] Laws of New York, chapter 310, 1839.
[2] *Ibid.*, chapter 303, 1840.
[3] *Ibid.*, chapter 109, 1841.
[4] *Ibid.*, chapter 278, 1841.
[5] *Ibid.*, chapter 135, 1842.
[6] See Laws of New York, chapter 450, 1860; and chapter 595, 1867.

week, two once every month, a majority once every quarter, and the whole board once a year, and the managing visitor must record the date of his visit and any remark. The board must report to the legislature once a year. Power was conferred upon the treasurer to collect money, for the support of lunatics, of relatives, cities and towns liable for such support. Patients were not to be admitted except "upon an order of some court, justice, judge, or supreme court commissioner," and on a physician's certificate. Lunatics might still be confined in any public or private asylum approved by the county supervisor; but where confined in any other places must be sent within ten days to the new state asylum. Each county might have one indigent insane patient in the asylum, "whose disease at the time of admission was a first attack and did not exceed six months; and such further number of either old or recent cases as the asylum could accommodate, in proportion to the insane population of the county." The patients were to be designated by the superintendents of the poor, or, if the county had no superintendents, by the first judge. Any insane indigent person who had been maintained at the asylum by friends for a period of six months, might on the representation of the superintendent of the institution that the patient was likely to be benefitted by a longer treatment, apply to the superintendents of the poor in the county of the patient's residence, who were required to defray the expense of supporting him another year, at the expiration of which period the term might be again extended, and then again extended for a third year; patients were not to be admitted into the asylum for shorter terms than six months. Persons on trial in the courts, who escaped indictment on the ground of insanity, were, if the court found the insanity still contin-

ued, to be ordered into "safe custody" at the asylum, and sent there at the expense of the county; the county to recover of any town or relative liable for the support of the lunatic. Also persons confined in any state institution under sentence, who became insane, were to be removed to the asylum after a careful examination by the county judge with two physicians. On recovery such patients were to be remanded into jail.

The act fixed the price of board at $2.50 a week during the first year, and left the price to be fixed thereafter by the managers, on condition that it should not "exceed actual cost of support and attendance, exclusive of officers' salaries." The managers might, however, reduce the price in the case of one patient from each county, where such patient was admitted within six months of a first attack. The managers might discharge patients on certificate of recovery from the superintendent.

In this act, too, provision is made for the gathering of data with regard to insanity within the state. The assessors in each place were instructed to find out the names, age, health, habits, occupations, and the kind, the degree, and derivation of the insanity.[1] About the same time superintendents of the poor were instructed to make out annual reports for their respective counties

[1] In the words of the act the assessors are instructed "to make diligent inquiry, and ascertain with accuracy the number and names of all insane persons in said town or ward, and to make a list of the same, with the best account they can get in each case of the patient's age, general health, habits and occupation, kind, degree and duration of insanity, and pecuniary ability of self and relatives liable for his support." This list was to be sent to the county clerk, who was instructed carefully to condense the facts exhibited, and report them to the treasurer of the asylum.

to the secretary of state, concerning other paupers in their charge.[1]

In the next few years the laws dealing with the landing of alien passengers in New York city were re-enacted and revised, the general policy remaining as outlined in the act of 1788.[2] An act of 1847[3] authorized the levying upon masters of vessels one dollar commutation money on every passenger reported to the city authorities. Commissioners of immigration[4] were to examine into the condition of the passengers arriving, and if any were found among them "lunatic, idiotic, deaf and dumb, blind or infirm persons, not members of emigrating families," and likely to become permanently public charges, such were to be reported particularly to the mayor.

> And thereupon the said mayor . . . . . shall instead of commutation money aforesaid, require . . . . . that the master or commander of such ship or vessel, with two sufficient sureties, shall execute a joint and several bond to the people of this state, in penalty of three hundred dollars for every such passenger, conditioned to indemnify and save harmless, each and every city, town or county within this state, from any cost or charge, which any city, town, or county shall incur for the maintenance or support of the person or persons named in such bond, or any of them, within five years from the date of such bond.

[1] Laws of New York, chapter 214, 1842. Superintendents are instructed to report each year in December, to the secretary of the state, "in such form as he shall direct, the name, age, sex, and native country of every pauper who shall have been relieved or supported by them during the year . . . . together with a statement of causes either direct or indirect, which have operated to render such person a pauper, and such other information as may be required."

[2] An account of these provisions has been already given in considering the act of 1788. The provisions relating to New York city were incorporated in "An Act to reduce several laws relating particularly to the city of New York into one act," passed April 9, 1813; and again in an act passed February 11, 1824.

[3] Laws of New York, chapter 195, 1847.

[4] Six persons were named Commissioners of Immigration by the governor, two to retire from office every two years; vacancies to be filled by appointment of the governor.

And further on it is provided that

> The said commissioners shall have power to provide for the support and maintenance of any persons for whom commutation money shall have been paid, or on whose account a bond shall have been given as hereinbefore provided, and who shall become chargeable upon any city, town or county, in such manner as they shall deem proper; and after real provision shall have been made by such commissioners, such city, town, or county shall not be entitled to claim any further indemnity for the support and maintenance of such persons.

The money collected by the commissioners at the port was devoted to the direct support of the persons for whom commutation money had been paid, or to defraying the expense of transporting aliens out of the state.

This act served during the following years as a basis for numerous amendments. Later in the same year (December, 1847) the provisions which had been made applicable to the port of New York were extended to ports and landing places on the St. Lawrence, Lake Ontario, Niagara River and Lake Erie.[1] Passengers coming in at these ports who became chargeable within three years after landing became a charge upon the superintendents of the poor in the county wherein the respective port of landing in each case was situated, and towns, cities, and counties were to be indemnified accordingly. Another act of this year[2] transferred the Marine Hospital on Staten Island from the commissioners of health to the commissioners of immigration, except as regarded the sanitary treatment of inmates. To this hospital passengers sick with contagious diseases were sent. An act of 1849[3] authorizes the commissioners of immigration to receive also such other patients as the health officers of the city of New York might

[1] Laws of New York, chapter 431, 1847.
[2] *Ibid.*, chapter 483, 1847.
[3] *Ibid.*, chapter 350, 1849.

send, at the rate of $3.00 a week board. In the case of unbonded passengers sent to the hospital, owners or consignees of the vessel bringing such passengers paid the same rate of board. Salaries and other expenses of the hospital were paid by the commissioners of immigration out of commutation money and money paid on bonds. In 1850[1] the penalty for failure to give bond within six days, as required by the act of May 5, 1847,[2] was fixed at $5,000; the penalty for failure to report passengers remaining $75. An act of 1851[3] explains that the commissioners of immigration are to expend the money collected by them exclusively upon those paying it or in whose behalf it is paid. "Nor," the act continues, "shall such passengers be entitled to any aid from the commissioners of emigration after they shall have left the State of New York, and been absent therefrom for more than one year." The act alters the amount of the bonds and of their commutation. A bond for $300, running five years, is required for each passenger reported to the mayor; and these bonds may be commuted by the payment of $1.50 head-money—except in the special cases of impotency and indigence. In 1853[4] the time allowed for the filing of bonds and payment of commutation money was reduced from three and six days to twenty-four hours in all cases. The commutation money for each passenger was raised from $1.50 to $2.00, with the following provision:

> and fifty cents of the amount commuted for any passenger or passengers shall be set aside as a separate fund for the benefit of each and every county in this state except the county of New York . . . . . and the same or as much of it as may be necessary, shall be distributed to the several counties, except the county of

[1] Laws of New York, chapter 339, 1850.
[2] *Ibid.*, chapter 195, 1847.
[3] *Ibid.*, chapter 523, 1851.
[4] *Ibid.*, chapter 224, 1853.

New York, once in every three months, and the balance that may be left after such three months' payment shall be paid over to the commissioners of emigration for general purposes.

The rate of commuting was changed again in 1869, and raised from $2.00 to $2.50, fifty cents of which was to be distributed as above.[1]

Each county in the state of New York has always formed a relief district more or less independent, and peculiar in its methods of administering the public poor fund. The legislature seldom passed a law without specifying to what one or several counties the law applied. Provisions in these laws were, however, often repeated, and early in the century the counties might be classified according as they made the charges for support of the poor wholly a county charge, or divided the poor into town and county charges. One year's residence gave a settlement in any place or county, so that a larger proportion of the population were legally settled in New York than was the case in Massachusetts. If, therefore, the state had undertaken—which it did not do—to provide for the unsettled poor, the burden upon the general treasury would have been lighter than in Massachusetts, where legal settlement was acquired with far greater difficulty. The absence of any considerable class of paupers directly dependent upon the state may have delayed the creation of a central board of supervision, but it did not make the appointment of such a board any less necessary. The work of the state board might be expected to prove more efficient just because the board would be unembarrassed by the direct dependence upon it of any numerous class of paupers, and would thus be disinterested in its supervision.

[1] *Ibid.*, chapter 808, 1869.

The charges upon the state of New York for support of the poor did not grow out of the law of settlement, but out of peculiar needs of special classes of dependents —deaf-mutes, the blind, the insane, the idiotic. The state did not recognize any other obligation to the deaf and dumb and blind than that of giving to these an education such as ordinary children get in public day schools; and this can hardly be called a charity, but should be regarded rather as an extension of the public school system. The state undertook a close supervision of the insane upon different grounds and chiefly because it was seen that this class of dependents were not properly cared for by the counties. The expense of maintaining a lunatic asylum, under competent medical experts, was too great to be borne by each county, even had there been competent medical experts enough to go around. However wise the measure may have been, the economy of gathering the patients into a few large asylums was apparent. This did not of course make it necessary for the state to undertake the management of such an asylum, but it took the matter out of the hands of individual counties, and the state, as we have seen, did in 1842 open an asylum. And from time to time the legislature passed regulations for the keeping of lunatics outside the state asylum. In general the policy adopted left only incurable patients in charge of county superintendents to be cared for outside an asylum. The establishment in 1858 of a state lunatic asylum for insane convicts at Auburn[1] recognized the obligation upon society to provide separately for its criminals and for its other dependents, even when dealing with the lunatic and insane. An amendment to the act of 1858 passed in 1867[2]

[1] Laws of New York, chapter 130, 1858.
[2] *Ibid.*, chapter 113, 1867.

provides for women attendants at the asylum—another recognition of the human character even of the insane. Whenever the physicians at either of the state prisons certified to the inspectors that a convict was insane, the inspectors were instructed to examine the convict and to cause one of the physicians at the asylum at Utica to make an examination; and if the convict proved to be insane he was to be removed to Auburn. The principal physician at Utica was made consulting manager of the asylum at Auburn. In 1865[1] an act was passed "to authorize the establishment of a state asylum for the chronic insane and for the better care of the insane poor," to be known as "the Willard Asylum for the Insane." Six trustees, appointed by the governor (of whom two retired every two years) fixed the rates of board at the institution, which must not exceed $2.00 a week, and "designated in a just and equitable manner, with the approval of the governor, the counties from which the chronic pauper insane should be sent to the said asylum." The chronic pauper insane from the counties designated were to be sent to this new asylum. Also all chronic insane pauper patients discharged from the state lunatic asylum, at Utica, were to be sent to the Willard Asylum, to be supported at the expense of their respective counties. This institution was set apart for the chronic insane. With regard to other insane persons it was enacted as follows:

> The county judges and superintendents of the poor in every county of the state, except those counties having asylums for the insane, to which they are now authorized to send such insane patients by special legislative enactments, are hereby required to send all indigent or pauper insane coming under their jurisdiction, who shall have been insane less than one year, to the State Lunatic Asylum [at Utica].

[1] Laws of New York, chapter 342, 1865.

In 1866, a commission was appointed to locate the Hudson River Asylum for the Insane,[1] and in 1867 the institution was organized[2] as the Hudson River State Hospital under a board of nine managers, three retiring every two years. This hospital was under the laws organizing the asylum at Utica, and was to accommodate not "more than 500 patients."

The state took upon itself the relief also of deaf mutes, as already stated, through an extension of the school system. The legislature authorized the directors of the New York institution for the instruction of the deaf and dumb to receive a certain number of indigent mutes apportioned among the senate districts, at an annual expense not exceeding $130 for each pupil, "the pupils to be designated as state pupils, to be selected by, and subject to the supervision of the superintendent of common schools."[3] Other deaf and dumb children liable to become public charges were to be placed in the New York institution for the deaf and dumb at an expense to the counties not exceeding $150[4] a year for each child. Later other institutions were opened to such children.[5] Indigent deaf and dumb and blind persons between the ages of twelve and twenty, whose parents, or, in case of orphans, nearest friends, had resided in the state during the previous three years, were to be received into an institution on application therefor; the expense of support to be paid by the parents or

[1] Laws of New York, chapter 666, 1866.

[2] *Ibid.*, chapter 93, 1867.

[3] *Ibid.*, chapter 97, 1852.

[4] *Ibid.*, chapter 352, 1863. In 1875 the limit to the amount which might be charged upon a county for support of a deaf mute was raised to $300 a year.

[5] *Ibid.*, chapter 180, 1870; chapter 213, 1875.

guardians or friends where absolute indigence is not established.[1]

Aside from these institutions erected and managed by the state, other institutions,—homes, hospitals, infirmaries, asylums, industrial associations,—received sums of money out of the general treasury;[2] these monies were withheld unless the institution made an annual report to the comptroller of "the operation, purposes, financial condition, expenditures, and management."[3] The law further requires superintendents of the poor to report to the secretary of the state in each year, "in such form as he shall direct, the name, age, sex, and native country, of every pauper who has been relieved or supported by them during the year preceding . . . . . together with a statement of the causes, either direct or indirect, which have operated to render such person a pauper," and such other information as may be required.[4]

No central board existed to supervise and coördinate the public charities in the state. There was work enough of this kind to be done, however, and in 1867 the legislature created the board of commissioners of public charities, a board of eight persons appointed by the governor, one from each judicial district of the state, to serve a term of eight years, one retiring annually. This board was given powers of inspection, and once in each year the commissioners or some one of them must visit all the institutions, charitable and correctional, except prisons, receiving state aid, and report to the legislature in writing whether the laws were complied with. They or one of them were also at least once in two

[1] Laws of New York, chapter 555, 1864.
[2] *Ibid.*, chapter 485, 1847; 76, 1848; 401, 1864.
[3] *Ibid.*, chapter 419, 1864.
[4] *Ibid.*, chapter 214, 1842.

years "to visit and examine into the condition of each city and county alms or poor house" and report. In the appointment of this board New York may have been influenced by the example of Massachusetts, which had appointed a similar board in 1863. The powers granted to the board were powers of inspection: superintendents and overseers of the poor still reported to the secretary of state.[1]

SINCE 1873.

We have seen that under the New York laws no able-bodied adult person of sane mind could come upon the state for support. The state bore the expense of maintaining a certain number of insane asylums, it undertook the education of a certain number of indigent deaf mutes, and it appropriated sums of money to certain private institutions: it dealt with "patients," "pupils," "orphans," "families of those in the militia," never with paupers. One year's residence gave settlement: whenever any dispute concerning the settlement of paupers arose, the superintendent of the poor in the county settled the dispute, subject to appeal to the county court.[2] The deliberate creation of a class of state paupers in 1873 is, therefore, worthy of special note.

Section one of the act of 1873[3] defines a state pauper:

> Every poor person who is blind, lame, old, impotent or decrepit, or in any way disabled or enfeebled, who shall apply for aid to any superintendent or overseer of the poor or other officer charged with the support and relief of indigent persons, and who shall not have resided sixty days in any county of this state within one year preceding the time of such application, shall be deemed to be a state pauper, and shall be maintained as hereinafter provided.

[1] Laws of New York, chapter 424, 1870.
[2] *Ibid.*, chapter 36, 1872.
[3] *Ibid.*, chapter 661, 1873.

The second section authorizes the state board of charities to contract with the authorities of not more than five counties or cities in the state "for the reception and support in the poor-houses or other suitable buildings of such counties or cities, respectively, of such paupers as may be committed to such poor-houses as provided by this act," such poor-houses to be known as "State almshouses." The state board might direct the removal of inmates from one institution to another. On the application of any superintendent, overseer of the poor, or other officer charged with the support of a poor person, any justice or judge might, on evidence that the person was a state pauper, issue a warrant for removal to the nearest state almshouse; the expenses of removal to be borne by the state. The keepers of the almshouses were directed to keep the clerk of the state board informed of the persons admitted, officers entering complaints, and of the judges committing; also of the discharge, absconding, or death of an inmate. The clerk must verify the statements made to him. Each almshouse must be visited periodically by some member of the board. The secretary of the board might remove persons expressing a preference for any other state or county, where such persons might have a legal settlement or friend willing to support or aid in supporting. Finally $25,000 was appropriated for the expense of carrying out the act.

In this same year the name of the state commissioners of public charities was changed to "The State Board of Charities," and the board was authorized to appoint in each county three or more persons, as visitors of poor-houses and charitable institutions, except such as were under state management.[1] The act also authorized the appointment of a state commissioner of lunacy. In the

[1] Laws of New York, chapter 571, 1873.

year following the passage of the act defining state paupers, an amendment authorized the state board to contract with not more than fifteen counties for support of such paupers.[1] Each year the legislature appropriates a certain sum for the carrying out of this act. The appropriation in 1893 was as follows:

> **For the support and care of state paupers, forty thousand dollars; and it shall be the duty of said board [state board of charities], in their annual report to the legislature, to give a complete and itemized statement of the expenditures for state paupers during the preceding fiscal year.**

Thus three classes of dependents were recognized under the New York laws: (1) town and city poor, (2) county poor, (3) state poor. Unsettled paupers not included in the definition of a state pauper were charges upon the county where they became chargeable; if they had been brought, enticed, or had come into the county, they were to be maintained where they were and notice given to the town or county liable for their support. The county superintendent or overseers receiving such notice must remove the pauper within thirty days, or deny the allegation of "such improper removal or enticing, or that their town (or county) is liable for the support of such pauper."[2]

From the opening of the first state asylum the care of the insane has been a growing one absorbing more and more of the state's resources. Several large asylums have been crowded with patients; by 1875 asylums had been establishsed at Utica, Auburn, Poughkeepsie, Middletown, and Buffalo. Wherever the local authorities could satisfy the state commissioners that adequate provision was made for the chronic insane in the local asylums, such asylums were licensed to receive patients.

[1] Laws of New York, chapter 464, 1874.
[2] *Ibid.*, chapter 546, 1885.

The commissioners might, if they regarded the provision made for the chronic insane inadequate, at any time direct the superintendents of the poor to remove such to the Willard Asylum within ten days.[1] Every institution where insane persons were confined was under the supervision of the state commissioner in lunacy: to him the keepers of all such institutions must report annually.[2] An act of 1879[3] restricted the privileges of the state asylums for the idiotic, blind, insane, or deaf and dumb, to those who had resided within the state one year.

In 1889 the duties of the state commissioner in lunacy were transferred to a new commission in lunacy.[4] The governor was authorized to appoint three commissioners: (1) a physician of ten years' experience, a graduate of some chartered medical college, to be chairman, to serve for a term of six years on a salary of $5,000 and travelling expenses[5]; (2) a member of the bar of ten years' experience, to serve a four years' term on a salary of $3,000 and travelling expenses; (3) a reputable citizen, to hold office two years and receive $10 a day for time spent, and expenses. This commission was to visit institutions and report measures adopted to "improve the care and treatment of the insane."

An act of April, 1890,[6] for the curative treatment of the insane develops still farther the policy of state provision for the insane. The commissioner in lunacy, the chairman of the state board of charities, and the comptroller are constituted a "board for the establishment of

[1] Laws of New York, chapter 713, 1871.

[2] *Ibid.*, chapter 446, 1874, title 10.

[3] *Ibid.*, chapter 272, 1879; amended by chapter 549, 1880.

[4] Chapter 283, 1889.

[5] Laws of New York, chapter 273, 1890, allowed an annual sum of $1,200 to each of the three commissioners for expenses.

[6] *Ibid.*, chapter 126, 1890.

state insane asylum districts and other purposes." There were to be as many districts as there were state asylums; in defining the boundaries of these districts no counties were to be divided. Several sections follow providing for the enlargement of the state asylums, and in section seven the act continues as follows:

> After sufficient accommodation shall have been provided in the state institutions for all the pauper and indigent insane of all the counties of the state, the expense of the custody, care, maintenance, treatment and clothing of the pauper and indigent insane patients in the state insane asylum shall not be a charge upon any county after the first of October next following but the cost of the same shall be paid out of the funds provided by the state for the support of the insane. It shall be the duty of the board created in the first section of this act to determine whether the accommodations are sufficient within the purview of this section.

It is made the duty of the state commissioners in lunacy to recommend the construction of new buildings when necessary to ease overcrowding. In section eleven the purpose of the act is set forth:

> It is the intent and meaning of this act that, when and after the state shall have been divided into districts, as herein provided, and sufficient accommodations in state institutions shall have been provided for all the pauper and indigent insane of all the counties of the state, and certified as set forth in the eleventh section of this act, no insane person shall be permitted to remain under county care, but all the insane who are now, or may hereafter become a public charge, shall be transferred to the respective state asylums without unnecessary delay, there to be regarded and known as the wards of the state, and to be wholly supported by the state.

The commissioner in lunacy was to furnish each year an estimate to the comptroller of the expense of carrying this act into effect. The act did not apply to the counties of New York, Monroe and Kings, although those counties might come under the act upon electing so to do and in that case their county asylums would become state institutions. Idiots were not included under the term "insane." The act absolutely forbade the

return of patients to the care of superintendents of the poor, or to town or city authorities.

In May of this same year the laws dealing with lunacy were further amended.[1] The commissioners in lunacy were to keep records of the names and residences of the judges empowered to approve medical certificates of insanity; also to file certified copies of certificates of each medical examiner in lunacy in the state; and "within one year," continued the act, "from the date of passage of this act, the commissioner shall cause a registration in his office of all the insane in custody in the asylums, public or private, homes or retreats in this state." The powers of inspection were recited; and it was made the duty of each commissioner to visit at least twice a year every institution where insane were in legal custody, and of the commission jointly, so far as possible, to meet managers and talk with patients. Private institutions were to be licensed by the commissioners.

A further development of the state system will probably result from an act of May, 1892,[2] in which the commissioners of the state board of charities are directed to select a suitable site "on which to establish an institution on the colony plan for the medical treatment, care, education and employment of epileptics."

Prior to 1887, as we have seen, out-door relief exceeding ten dollars could be granted only on an order from the justice. In 1887 this restriction was removed, and county superintendents given power to make such rules as they deemed proper "in regard to administering tem-

[1] Laws of New York, chapter 273, 1890.
[2] *Ibid.*, chapter 503, 1892.

porary outdoor relief to the poor of the several towns . . . by the overseers of the poor thereof, and also in regard to the amount such overseer might expend for the relief of such person or family." The law of temporary relief was again modified in 1894.[1] Under this law temporary relief to the amount of ten dollars may be granted on application to the supervisor of the town, and the amount charged upon the town or county, according as the person aided is a town or county charge; but the sanction in writing of one of the superintendents of the poor of the county is required where aid amounting to more than ten dollars is granted to one person or family. This written sanction of the superintendent must be presented to the county treasurer along with the order of the supervisor. The granting of outdoor relief is thus made a matter of local option in the counties. The proportion which outdoor relief bears to other forms of relief depends upon local conditions and the character of local administrators. The judicious administration of outdoor relief for a short period may save the pauperizing of an entire family which would result if relief could be obtained only on entering some institution and by breaking up of the family. Administration without an institution is, however, open to imposition and accordingly requires careful supervising and frequent visiting.

In conclusion, it may be said that the poor-law of New York state has formulated itself out of special acts for adjusting the relations of one county with other counties within the state and with the cities and towns within the county itself. The counties have been left free to choose whether they will make their poor town or county charges, and how they will provide for each

[1] *Ibid.*, chapter 663, 1894.

class. Only within the last quarter of a century has the state come to deal with paupers directly, so creating a third class of dependents—state paupers—distinct from the classes of town and of county poor.

APPENDIX I.

UNITED STATES IMMIGRATION LAWS.

An act to regulate immigration.

[United States Statutes at Large, 1882, Chapter 376.]

Be it enacted. . . . . That there shall be levied, collected, and paid a duty of fifty cents for each and every passenger not a citizen of the United States who shall come by steam or sail vessel from a foreign port to any port within the United States.[1] The said duty shall be paid to the collector of customs at the port to which such passenger shall come, or if there be no collector at such port, then to the collector of customs nearest thereto, by the master, owner, agent, or consignee of such vessel, within twenty-four hours after the entry thereof into such port. The money thus collected shall be paid into the United States Treasury, and shall constitute a fund to be called the immigrant fund, and shall be used, under the direction of the Secretary of the Treasury, to defray the expense of regulating immigration under this act, and for the care of immigrants arriving in the United States, for the relief of such as are in distress, and for the general purposes and expenses of carrying this act into effect. The duty imposed by this section shall be a lien upon the vessels which shall bring such passengers into the United States, and shall be a debt in favor of the United States against the owner or owners of such vessels; and the payment of such duty may be enforced by any legal or equitable remedy: *Provided*, That no greater sum shall be expended for the purposes hereinbefore mentioned, at any port, than shall have been collected at such port.

[1] Section 22 of chap. 121, 1883–85, approved June 26, 1884, entitled "An act to remove certain burdens on the American merchant marine and to encourage the American foreign carrying trade and for other purposes," enacts "That until the provisions of section one, chapter three hundred and seventy-six, of the laws of eighteen hundred and eighty-two, shall be made applicable to passengers coming into the United States by land carriage, said provisions shall not apply to passengers coming by vessels employed exclusively in the trade between the ports of the United States and the ports of the Dominion of Canada or the ports of Mexico." The report of the state board of lunacy and charity of Massachusetts for 1894 refers to the provision as follows: "It is to be observed that the passage in 1884, of a Congressional Act, exempting vessels employed in carrying alien passengers between the ports of the United States and of Canada from the payment of a capitation tax, resulted in a considerable reduction in the amount of head-money collected at the port of Boston; and the present annual receipts from that source are not now equal to the annual outlay for the salary of the inspectors employed here, and the expense of inspection. During the official year ending September 30, 1883, 38,043 transatlantic and 7,387 provincial alien immigrants were landed at the port of Boston, while during the official year ending September 30, 1894, 14,673 transatlantic and 17,388 provincial alien immigrants were so landed." pp. 13–14.

SEC. 2. . . . That the Secretary of the Treasury is hereby charged with the duty of executing the provisions of this act and with supervision over the business of immigration to the United States, and for that purpose he shall have power to enter into contracts with such State commission, board, or officers as may be designated for that purpose by the governor of any state to take charge of the local affairs of immigration in the ports within said State, and to provide for the support and relief of such immigrants therein landing as may fall into distress or need of public aid, under the rules and regulations to be prescribed by said Secretary; and it shall be the duty of such State commission, board, or officers so designated to examine into the condition of passengers arriving at the ports within such State in any ship or vessel, and for that purpose all or any of such commissioners or officers, or such other person or persons as they shall appoint, shall be authorized to go on board of and through any such ship or vessel; and if on such examination there shall be found among such passengers any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge, they shall report the same in writing to the collector of such port, and such persons shall not be permitted to land.

SEC. 3. . . . . That the Secretary of the Treasury shall establish such regulations and rules and issue from time to time such instructions not inconsistent with law as he shall deem best calculated to protect the United States and immigrants into the United States from fraud and loss, and for carrying out the provisions of this act and the immigration laws of the United States; and he shall prescribe all forms of bonds, entries, and other papers to be used under and in the enforcement of the various provisions of this act.

SEC. 4. . . . . That all foreign convicts except those convicted of political offences, upon arrival, shall be sent back to the nations to which they belong and whence they came. The Secretary of the Treasury may designate the State board of charities of any State in which such board shall exist by law, or any commission in any State, or any person or persons in any State whose duty it shall be to execute the provisions of this section without compensation. The Secretary of the Treasury shall prescribe regulations for the return of the aforesaid persons to the countries from whence they came, and shall furnish instructions to the board, commission, or persons charged with the execution of the provisions of this section as to the mode of procedure in respect thereto, and may change such instructions from time to time. The expense of such return of the aforesaid persons not permitted to land shall be borne by the owners of the vessels in which they come.

SEC. 5. This act shall take effect immediately.

Approved, August 3, 1882.

An act in amendment to the various acts relative to immigration and the importation of aliens under contract or agreement to perform labor.

[United States Statutes at Large, 1891, Chapter 551.]

Be it enacted. . . . That the following classes of aliens shall be excluded from admission into the United States, in accordance with the existing acts regulating immigration, other than those concerning Chinese laborers: All idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous contagious disease, persons who have been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, polygamists, and also any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special inquiry that such person does not belong to one of the foregoing excluded classes, or to the class of contract laborers excluded by the act of February twenty-sixth, eighteen hundred and eighty-five, but this section shall not be held to exclude persons living in the United States from sending for a relative or friend who is not of the excluded classes, under such regulations as the Secretary of the Treasury may prescribe: *Provided*, that nothing in this act shall be construed to apply to or exclude persons convicted of a political offence, notwithstanding said political offence may be designated as a "felony, crime, infamous crime, or misdemeanor, involving moral turpitude" by the laws of the land whence he came, or by the court of convicting.

SEC. 2. That no suit or proceeding for violations of said act of February twenty-sixth, eighteen hundred and eighty-five, prohibiting the importation and migration of foreigners under contract or agreement to perform labor, shall be settled, compromised, or discontinued without the consent of the court entered of record with reasons therefor.

SEC. 3. That it shall be deemed a violation of said act of February twenty-sixth, eighteen hundred and eighty-five, to assist or encourage the importation or migration of any alien by promise of employment, through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement, shall be treated as coming under a contract, as contemplated by such act; and the penalties by said act imposed, shall be applicable in such a case: *Provided*, That this section shall not apply to States and Immigration Bureaus of States advertising the inducements they offer for immigration to such States.

SEC. 4. That no steamship or transportation company or owners of vessels shall directly, or through agents, either by writing, printing, or oral representations, solicit, invite or encourage the immigration of any alien into the United States except by ordinary commercial letters, circulars, advertisements, or oral representations, stating the sailings of their vessels and the terms and facilities of transportation therein; and for a violation of this provision any such steamship or

transportation company, and any such owners of vessels, and the agents by them employed, shall be subjected to the penalties imposed by the third section of said act of February twenty-sixth, eighteen hundred and eighty-five, for violations of the first section of said act.

SEC. 5. That section five of said act of February twenty-sixth, eighteen hundred and eighty-five, shall be, and hereby is, amended by adding to the second proviso in said section, the words, "nor to any recognized profession, nor professors for colleges and seminaries," and by excluding from the second proviso of said section, the words, "or any relative or personal friend."

SEC. 6. That any person who shall bring into or land in the United States by vessel or otherwise, or who shall aid to bring into or land in the United States by vessel or otherwise, any alien not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

SEC. 7. That the office of superintendent of immigration is hereby created and established, and the President, by and with the advice and consent of the Senate, is authorized and directed to appoint such officer, whose salary shall be four thousand dollars per annum, payable monthly. The superintendent of immigration shall be an officer in the Treasury Department, under the control and supervision of the Secretary of the Treasury, to whom he shall make annual reports in writing of the transactions of his office, together with such special reports, in writing, as the Secretary of the Treasury shall require. The Secretary shall provide the superintendent with a suitable furnished office in the city of Washington, and with such books of record and facilities for the discharge of the duties of his office as may be necessary. He shall have a chief clerk, at a salary of two thousand dollars per annum, and two first-class clerks.

SEC. 8. That upon the arrival by water at any place within the United States of any alien immigrants, it shall be the duty of the commanding officer and the agents of the steam or sailing vessel by which they came, to report the name, nationality, last residence, and destination of every such alien, before any of them are landed, to the proper inspection officers, who shall thereupon go or send competent assistants on board such vessel and there inspect all such aliens, or the inspection officers may order a temporary removal of such aliens for examination at a designated time and place, and then and there detain them until a thorough inspection is made. But such removal shall not be considered a landing during the pendency of such examination. The medical examination shall be made by surgeons of the Marine Hospital Service. In cases where the services of a Marine Hospital surgeon cannot be obtained without causing unreasonable delay, the inspector may cause an alien to be examined by a civil surgeon, and the Secretary of the Treasury shall fix the compensa-

tion for such examination. The inspection officers and their assistants shall have power to administer oaths, and to take and consider testimony touching the right of any such alien to enter the United States, all of which shall be entered of record. During such inspection after temporary removal the superintendent shall cause such aliens to be properly housed, fed, and cared for, and also, in his discretion, such as are delayed in proceeding to their destination after inspection. All decisions made by the inspection officers or their assistants touching the right of any alien to land, when adverse to such right, shall be final unless appeal be taken to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury. It shall be the duty of the aforesaid officers and agents of such vessel to adopt due precautions to prevent the landing of any alien immigrant at any place or time other than that designated by the inspection officers, and any such officer or agent, or person in charge of such vessel, who shall either knowingly or negligently land, or permit to land, any alien immigrant at any place or time other than that designated by the inspection officers, shall be deemed guilty of a misdemeanor and punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

That the Secretary of the Treasury may prescribe rules for inspection along the borders of Canada, British Columbia, and Mexico, so as not to obstruct or unnecessarily delay, impede, or annoy passengers in ordinary travel between said countries: *Provided*, That not exceeding one inspector shall be appointed for each customs district, and whose salary shall not exceed twelve hundred dollars per year.

All duties imposed and powers conferred by the second section of the act of August third, eighteen hundred and eighty-two, upon State commissioners, boards, or officers acting under contract with the Secretary of the Treasury, shall be performed and exercised, as occasion may arise, by the inspection officers of the United States.

SEC. 9. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States where the various United States immigrant stations are located, the officials in charge of such stations as occasion may require shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purposes of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

SEC. 10. That all aliens who shall unlawfully come to the United States, shall, if practicable, be immediately sent back on the vessel by which they were brought in. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessel on which such alien came; and if any master, agent, consignee, or owner of such vessel shall refuse to receive back on board the vessel such aliens, or shall neglect to detain them thereon, or shall refuse or neglect to return them to

the port from which they came, or to pay the cost of their maintenance while on land, such master, agent, consignee, or owner shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than three hundred dollars for each and every offence; and any such vessel shall not have clearance from any port of the United States while any such fine is unpaid.

SEC. 11. That any alien who shall come into the United States in violation of law may be returned as by law provided, at any time within one year thereafter, at the expense of the person or persons, vessel, transportation company, or corporation bringing such alien into the United States, and if that can not be done, then at the expense of the United States; and any alien who becomes a public charge within one year after his arrival in the United States from causes existing prior to his landing therein shall be deemed to have come in violation of the law and shall be returned as aforesaid.

SEC. 12. That nothing contained in this act shall be construed to affect any prosecution or other proceeding, criminal or civil, begun under any existing act or any acts hereby amended, but such prosecution or other proceedings, criminal or civil, shall proceed as if this act had not been passed.

SEC. 13. That the circuit and district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act; and this act shall go into effect on the first day of April, eighteen hundred and ninety-one.[1]

Approved, March 3, 1891.

An act to facilitate the enforcement of the immigration and contract-labor laws of the United States.

[United States Statutes at Large, 1893, Chapter 206.]

Be it enacted. . . . . That in addition to conforming to all present requirements of the law, upon the arrival of any alien immigrants by water at any port within the United States, it shall be the duty of the master or commanding officer of the steamer or sailing vessel having said immigrants on board to deliver to the proper inspector of immigration at the port lists or manifests made at the time and place of embarkation of such alien immigrants on board such steamer or vessel, which shall, in answer to questions at the top of said lists, state as to each immigrant the full name, age, and sex, whether mar-

[1] "Pursuant to the evident intent of Congress as expressed in the immigration act of March 3, 1891, all contracts with State boards have been abrogated, and the immigration business at all ports of the United States is now controlled and managed directly by the Treasury Department through a commissioner of immigration stationed at each principal port of entry assisted by a suitable number of inspection officers. The change proves to be a beneficial one, giving to the service uniformity, method, and greater efficiency." Report of the Secretary of the Treasury, 1891, pp. lix-lx.

ried or single; the calling or occupation; whether able to read or write; the nationality; the last residence; the seaport for landing in the United States; the final destination, if any, beyond the seaport of landing; whether having a ticket through to such final destination; whether the immigrant has paid his own passage or whether it has been paid by other persons or by any corporation, society, municipality, or government; whether in the possession of money, and if so whether upwards of thirty dollars or less; whether going to join a relative, and if so, what relative and his name and where; whether ever in prison or almshouse or supported by charity; whether a polygamist; whether under contract, express or implied, to perform labor in the United States; and what is the immigrant's condition of health mentally and physically, and whether deformed or crippled, and if so, from what cause.

SEC. 2. That the immigrants shall be listed in convenient groups and no one list or manifest shall contain more than thirty names.

To each immigrant or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list, and his number on the list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or of the officer first or second below him in command, taken before the United States consul or consular agent at the port of departure, before the sailing of said vessel, to the effect that he has made a personal examination of each and all of the passengers named therein, and that he has caused the surgeon of said vessel sailing therewith to make a physical examination of each of said passengers, and that from his personal inspection and the report of said surgeon, he believes that no one of said passengers is an idiot or insane person, or a pauper or likely to become a public charge, or suffering from a loathsome or dangerous contagious disease, or a person who has been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, or a polygamist, or under a contract or agreement, express or implied, to perform labor in the United States, and that also, according to the best of his knowledge and belief, the information in said list or manifest concerning each of said passengers named therein is correct and true.

SEC. 3. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests before the departure of said vessel, and make oath or affirmation in like manner before said consul or consular agent, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the passengers named therein, and that said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said passengers. If no surgeon sails with any vessel bringing alien immigrants, the mental and physical examinations and

the verifications of the lists or manifests may be made by some competent surgeon employed by the owners of the vessel.

SEC. 4. That in the case of the failure of said master or commanding officer of said vessel to deliver to the said inspector of immigration lists or manifests, verified as aforesaid, containing the information above required as to all alien immigrants on board, there shall be paid to the collector of customs at the port of arrival the sum of ten dollars for each immigrant qualified to enter the United States, concerning whom the above information is not contained in any list as aforesaid, or said immigrant shall not be permitted to enter the United States, but shall be returned like other excluded persons.

SEC. 5. That it shall be the duty of every inspector of arriving alien immigrants to detain for a special inquiry, under section one of the act of March third, eighteen hundred and ninety-one, every person who may not appear to him to be clearly and beyond doubt entitled to admission, and all special inquiries shall be conducted by not less than four officials acting as inspectors, to be designated in writing by the Secretary of the Treasury or the superintendent of immigration, for conducting special inquiries, and no immigrant shall be admitted upon special inquiry except after a favorable decision made by at least three of said inspectors; and any decision to admit shall be subject to appeal by any dissenting inspector to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury, as provided in section eight of said immigration act of March third, eighteen hundred and ninety-one.

SEC. 6. That section five of the act of March third, eighteen hundred and ninety-one, "in amendment to the various acts relative to immigration and the importation of aliens under contract or agreement to perform labor," is hereby amended by striking out the words "second proviso" where they first occur in said section and inserting the words "first proviso" in their place; and section eight of said act is hereby so amended that the medical examinations of arriving immigrants to be made by surgeons of the Marine Hospital Service may be made by any regular medical officers of such Marine Hospital Service detailed therefor by the Secretary of the Treasury; and civil surgeons shall only be employed temporarily from time to time for specific emergencies.

SEC. 7. That no bond or guarantee, written or oral, that an alien immigrant shall not become a public charge shall be received from any person, company, corporation, charitable or benevolent society or association, unless authority to receive the same shall in each special case be given by the Superintendent of Immigration, with the written approval of the Secretary of the Treasury.

SEC. 8. That all steamship or transportation companies, and other owners of vessels, regularly engaged in transporting alien immigrants to the United States, shall twice a year file a certificate with the Secretary of the Treasury that they have furnished to be kept conspicu-

ously exposed to view in the office of each of their agents in foreign countries authorized to sell emigrant tickets, a copy of the law of March third, eighteen hundred and ninety-one, and of all subsequent laws of this country relative to immigration, printed in large letters, in the language of the country where the copy of the law is to be exposed to view, and that they have instructed their agents to call the attention thereto of persons contemplating emigration before selling tickets to them; and in case of the failure for sixty days of any such company or any such owners to file such a certificate, or in case they file a false certificate, they shall pay a fine of not exceeding five hundred dollars, to be recovered in the proper United States court, and said fine shall also be a lien upon any vessel of said company or owners found within the United States.

SEC. 9. That after the first day of January, eighteen hundred and ninety-three, all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and other like privileges in connection with the Ellis Island immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Secretary of the Treasury may prescribe.

SEC. 10. That this act shall not apply to Chinese persons; and shall take effect as to vessels departing from foreign ports for ports within the United States after sixty days from the passage of this act.

Approved, March 3, 1893.[1]

[1] The Secretary of the Treasury in his Report for 1893 commented on this act as follows: "The act of March 3, 1893, which went into effect May 12 last, has increased the efficiency of the service by providing a more systematic and careful examination of immigrants. Transportation lines have readily conformed to the new requirements, and have rendered valuable assistance in carrying out the provisions of the law . . .

"By a comparison of those now arriving with those who came in former years, the remedial effect of recent legislation becomes apparent. Few now are rejected as likely to become paupers. Only three were admitted on bonds as against 2,135 in the year 1891–92, and the system of inspection is so faithfully conducted that if for want of proper examination abroad an idiot or insane person, pauper, or one likely to become a public charge, or one suffering from a loathsome or dangerous contagious disease, succeeds in embarking, almost certain detection awaits him here, and he is deported at the expense of the steamship company bringing him over." Report of the Secretary of the Treasury, 1893, p. xiv.

APPENDIX II.

CONTRACT-LABOR LAWS.

An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia.

[United States Statutes at Large, 1885, Chapter 164.]

Be it enacted. . . . That from and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

SEC. 2. That all contracts or agreements, express or implied, parol or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service by any person in the United States, its Territories, or the District of Columbia, previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect.

SEC. 3. That for every violation of any of the provisions of section one of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging or soliciting the migration or importation of any alien or aliens, foreigner or foreigners, into the United States, its Territories, or the District of Columbia, to perform labor or service of any kind under contract or agreement, express or implied, parol or special, with such alien or aliens, foreigner or foreigners, previous to becoming residents or citizens of the United States, shall forfeit and pay for every such offence the sum of one thousand dollars, which may be sued for and recovered by the United States or by any person who shall first bring his action therefor, including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States; the proceeds to be paid into the Treasury of the United States; and separate suits may be brought for each alien or foreigner being a party to such contract or agreement aforesaid. And it shall be the duty of the dis-

trict attorney of the proper district to prosecute every such suit at the expense of the United States.

SEC. 4. That the master of any vessel who shall knowingly bring within the United States on any vessel, and land, or permit to be landed, from any foreign port or place, any alien laborer, mechanic, or artisan who, previous to embarkation on such vessel, had entered into contract or agreement, parol or special, express or implied, to perform labor or service in the United States, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than five hundred dollars for each and every such alien laborer, mechanic or artisan so brought as aforesaid, and may also be imprisoned for a term not exceeding six months.

SEC. 5. That nothing in this act shall be so construed as to prevent any citizen or subject of any foreign country temporarily residing in the United States, either in private or official capacity, from engaging under contract or otherwise, persons not residents or citizens of the United States, to act as private secretaries, servants or domestics for such foreigner temporarily residing in the United States, as aforesaid; nor shall this act be so construed as to prevent any person or persons, partnership, or corporation from engaging, under contract or agreement, skilled workmen in foreign countries to perform labor in the United States, in or upon any new industry not at present established in the United States: *Provided*, that skilled labor for that purpose cannot be otherwise obtained; nor shall the provisions of this act apply to professional actors, artists, lecturers, or singers, nor to persons employed strictly as personal or domestic servants: *Provided*, that nothing in this act shall be construed as prohibiting any individual from assisting any member of his family or any relative or personal friend, to migrate from any foreign country to the United States, for the purpose of settlement here.

SEC. 6. That all laws or parts of laws conflicting herewith be, and the same are hereby repealed.

Approved February 26, 1885.

An act to amend an act to prohibit the importation and immigration of foreigners and aliens, under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia.

[United States Statutes at Large, 1887, Chapter 220.]

Be it enacted . . . That an act to prohibit the importation and immigration of foreigners and aliens, under contract or agreement to perform labor in the United States, its Territories and the District of Columbia, approved February twenty-sixth, eighteen hundred and eighty-five, and to provide for the enforcement thereof, be amended by adding the following :

"SEC. 6. That the Secretary of the Treasury is hereby charged with the duty of executing the provisions of this act, and for that purpose he shall have power to enter into contract with such State commission, board, or officers as may be designated for that purpose by the Governor of any State to take charge of the local affairs of immigration in the ports within said State, under the rules and regulations to be prescribed by said Secretary; and it shall be the duty of such State commission, board, or officers so designated to examine into the condition of passengers arriving at the ports within such State, in any ship or vessel, and for that purpose all or any of such commissioners, or such other person or persons as they shall appoint, shall be authorized to go on board of and through any such ship or vessel; and if in such examination there shall be found among such passengers any person included in the prohibition of this act, they shall report the same in writing to the collector of such port, and such persons shall not be permitted to land.

"SEC. 7. That the Secretary of the Treasury shall establish such regulations and rules, and issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act; and he shall prescribe all forms of bonds, entries, and other papers to be used under and in the enforcement of the various provisions of this act.

"SEC. 8. That all persons included in the prohibition in this act, upon arrival, shall be sent back to the nations to which they belong and from whence they came. The Secretary of the Treasury may designate the State board of charities of any State in which such board shall exist by law, or any commission in any State, or any person or persons in any State, whose duty it shall be to execute the provisions of this section and shall be entitled to reasonable compensation therefor to be fixed by regulation prescribed by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe regulations for the return of the aforesaid persons to the countries from whence they came, and shall furnish instructions to the board, commission, or persons charged with the execution of the provisions of this section as to the time of procedure in respect thereto, and may change such instructions from time to time. The expense of such return of the aforesaid persons not permitted to land shall be borne by the owners of the vessels in which they came. And any vessel refusing to pay such expenses shall not thereafter be permitted to land at or clear from any port of the United States. And such expenses shall be a lien on said vessel. . . . . (*Part omitted makes appropriation.*)

"SEC. 9. That all acts and parts of acts inconsistent with this act are hereby repealed.

"SEC. 10. That this act shall take effect at the expiration of thirty days after its passage."

Approved February 23, 1887.

An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and eighty-eight, and for prior years, and for other purposes.

[United States Statutes at Large, 1888, Chapter 1210.]

Be it enacted. . . . . That the act approved February twenty-third, eighteen hundred and eighty-seven, entitled "An act to amend an act to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," be, and the same is hereby, so amended as to authorize the Secretary of the Treasury, in case he shall be satisfied that an immigrant has been allowed to land contrary to the prohibition of that law, to cause such immigrant within the period of one year after landing or entry, to be taken into custody and returned to the country from whence he came, at the expense of the owner of the importing vessel, or, if he entered from an adjoining country, at the expense of the person previously contracting for the services. That the act approved February twenty-sixth, eighteen hundred and eighty-five, entitled "An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," be, and the same is hereby, amended so as authorize the Secretary of the Treasury to pay to an informer who furnishes original information that the law has been violated such a share of the penalties recovered as he may deem reasonable and just, not exceeding fifty per centum, where it appears that the recovery was had in consequence of the information thus furnished . . . .

(Par. 2 refers to the preparation and contents of the statement of appropriations made by Congress at each session. Sec. 3 authorizes the Secretary of the Navy to loan scientific instruments for signal service use.)

APPENDIX III.

CONTRACT BETWEEN THE MASSACHUSETTS STATE BOARD OF LUNACY AND CHARITY AND THE SECRETARY OF THE TREASURY. SIGNED MARCH 28, 1894.

AGREEMENT.[1]

This agreement entered into this twenty-eighth day of March, 1894, by the Commissioner of Immigration for the Customs Ports of the State of Massachusetts, the party of the first part, and by the State Board of Lunacy and Charity of the State of Massachusetts, the party of the second part, pursuant to an Act of Congress, entitled "An Act to regulate immigration," approved August 3, 1882, and the Acts in amendment thereof,—Witnesseth: That the party of the second part undertakes to provide at the hospitals controlled by the State of Massachusetts or at their domicils in case of danger to life from removal, from the date of notification to the Bureau of Immigration, provided the immigrant's right to relief is established, suitable accommodations for such aliens as shall become public charges from accident or bodily ailment or disease, or physical or mental inability to earn a living, which is of a grave nature, or is likely to be of a permanent character, during the first year's residence of the immigrant in the United States.

The party of the second part agrees to transport to and treat and care for in hospital any alien immigrant who, during his first year's residence in the United States, has become a public charge by reason of accident, bodily ailment or physical or mental inability to earn a living, of a grave nature or likely to be of a permanent character, and to render to the party of the first part on or before the fifteenth of each month, a sworn statement with vouchers in duplicate, for all the necessary expenses of the preceding month incurred by the party of the second part, in executing this contract, at a rate not exceeding seventy-five cents per day each, and if more than seven days, at a rate not exceeding five dollars per week each, for such alien immigrants, heretofore described, as may be provided for in the hospitals controlled by the State of Massachusetts, or at their domicils in case of danger to life from removal, which account, when audited, shall be paid on or before the thirtieth day of the month in which the account may be rendered.

It is the intent and meaning of this contract that neither party shall be bound to execute its provisions or incur any liability beyond

[1] Taken from the report of the State Board of Lunacy and Charity, for 1894, pp. 10-11.

the amount properly applicable thereto, under the Acts herein cited; and it is further understood that the circular of the Treasury Department, No. 177, entitled "Maintenance and Deportation of Alien Immigrants," shall be considered as part and parcel of this contract and that an officer of the United States Marine Hospital Service, or practicing physician, designated by this Bureau, shall have access to any patient cared for under this contract.

Provided, that this contract may be revoked by either party thereto giving to the other party sixty days' notice in writing of its intention to terminate said contract; and when sixty days shall have expired, after such notice shall be given, this contract shall cease and terminate.

Immigration at the port of New York was left in the hands of the board of state immigration commissioners. The agreement between this board and the Secretary of the Treasury in 1882 was terminated in 1890, "because," to quote from the Secretary's report,[1] "of want of harmony between the officers of this Department and the Commissioners, and because it was believed that the Department could administer the service with greater economy and efficiency through agencies under its own control." The report goes on to say that vigilance and economy have reduced the expense undergone for the care and maintenance of immigrants to one-third what it had been under the agreement.

[1] Report of the Secretary of the Treasury, 1890, p. lxxiv.

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